

PART I

CHARTER

ARTICLE I - CREATION AND POWERS

SECTION 1.01. CREATION AND POWERS OF THE TOWN.

The Town of Melbourne Village in Brevard County, Florida, incorporated May 13, 1957 under Chapter 57-1578, Special Laws of Florida, shall have all powers possible for a municipality to have under the constitution and Laws of the State of Florida as fully and completely as though they were enumerated in detail under this charter, in addition to any powers specifically so enumerated.

SECTION 1.02. CORPORATE LIMITS.

The following area shall constitute the corporate limits of the Town of Melbourne Village, hereafter known as the Town:

The Southwest one-quarter (SW 1/4) of the Northeast one-quarter (NE 1/4); the Southwest one-quarter (SW 1/4); the West one-half (W 1/2) of the Southeast one-quarter (SE 1/4, all in Section 31, Township 27 South, Range 37 East; Lots 25 and 26 of Florida Indian River Land Company Subdivision of Section 6, Township 28 South, Range 37 East, as found recorded in Book 1, page 164; the West one-half (W 1/2) of East one-half (E 1/2) of the Northwest one-quarter (NW 1/4) of Section 6, Township 28 South, Range 37 East: Lot 23 of Florida Indian River Land Company Subdivision of

Section 6, Township 28 South, Range 37 East, as found recorded in Book 1, at page 164, all situated in Brevard County, Florida.

SECTION 1.03. INTERGOVERNMENTAL RELATIONS.

The Town may exercise any of its powers or perform any of its functions, and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with any one or more states or agencies thereof, other counties or municipalities of the United States or agencies thereof, or agencies of the Federal Government, to the fullest extent permitted by Law.

* Editor's note: Charter adopted by referendum on November 4, 1980; effective November 13, 1980.

SECTION 1.04. CONSTRUCTION.

The powers of the Town under this charter shall be construed liberally in favor of the Town, and the specific mention of particular powers in this charter shall not be construed as limiting in any way the general powers stated in this article.

ARTICLE II. - TOWN COMMISSION

SECTION 2.01. GENERAL POWERS AND DUTIES.

All powers of the Town shall be vested in the Town commission, hereafter known as the commission, except as otherwise provided by law or provisions of this charter, and the commission

CHARTER

shall provide for the exercise thereof and for all duties and obligations imposed on the Town by law. The commission shall make provisions to secure the general health, safety and welfare of the Town and its citizens. This enumeration of certain powers and duties does not in any way exclude any and all powers of the Town as granted by the constitution and laws of the State of Florida.

SECTION 2.02. COMPOSITION AND QUALIFICATIONS.

(1) The Town shall be governed by a commission consisting of (7) seven members, elected by the qualified voters of the Town at large. Included in this number is the mayor-commissioner, hereafter known as the mayor.

(2) Members of the commission shall have been residents of the Town for at least (1) one year prior to the date of qualification for office, and shall have the qualifications of a Town elector.

Electors may qualify for the seat of either the mayor or a commission member. All qualifications and elections for the office shall be conducted on a nonpartisan basis, without regard for, or designation of, political party affiliation of any nominee on any nomination petition or ballot.

SECTION 2.03. JUDGE OF QUALIFICATIONS.

The commission shall be the judge of the election and qualifications of candidates.

MELBOURNE VILLAGE

SECTION 2.04. TERMS.

Commission members, including the mayor, shall serve for terms of two (2) years or until their successors are elected and qualified, except when elected to fill vacancies with unexpired terms of less than two (2) years. Terms of office shall be staggered so that at least three (3) commission members shall be elected each year. There shall be no restriction on the number of terms for which a member may be re-elected.

SECTION 2.05. VICE MAYOR.

Annually, at the first regular meeting following the Town's regular election, the commission shall elect from among its members a vice mayor. He shall preside at meetings during the temporary absence of the mayor, and as interim mayor in the event the office of the mayor becomes vacant, pending election of a mayor by the commission under provisions of Sec. 2.07 of this Article.

SECTION 2.06. MAYOR.

The mayor shall qualify and run for the office of mayor for a term of two years. He shall be the presiding officer and a voting member of the commission. The mayor is recognized as head of the Town for ceremonial purposes and for the purpose of civil process and for purpose of military law. The mayor shall appoint all Town employees and appointive administrative officers, and members to all Town boards and committees, subject to the advice and consent of the commission. When deemed

CHARTER

necessary for the good of the Town, the mayor may temporarily suspend or remove any employee or appointive officer, except as otherwise provided by law and make temporary appointments to fill vacancies, reporting his action and reasons therefor to the commission at the next regular or special commission meeting for its approval or rejection. He shall have general supervision and control over all Town officers and employees, except members of the commission and, with similar exceptions, may at all times examine into the conditions of their respective offices, books, papers and records therein, and the manner of conducting their official business, and may call upon any officer or employee for information in any matter pertaining to his office, shall communicate to the commission such information and recommend such measures as may in his judgement tend to the improvement and be in the best interest of the Town. He shall not have the power to appoint or suspend members of the commission. The mayor may authorize any administrative officer who is subject to his direction and supervision to exercise stated powers with respect to subordinates in that officer's department, office or agency. The mayor shall, in conjunction with the members of the commission, insure that all laws, ordinances and provisions of this charter are faithfully executed. He shall execute all legal instruments to which the Town is a party as the commission may direct, unless otherwise provided by charter or by law. He shall present to the commission the annual budget in the form prescribed by charter or by law. He may convene special commission meetings and workshops. He shall be an ex officio member of Town committees and boards, with the exception of the board of adjustment; but is not obligated to attend meetings, is not counted in determining if a quorum is present, and may not preside or vote.

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MELBOURNE VILLAGE

SECTION 2.07. VACANCIES; FORFEITURE OF OFFICE; FILLING OF VACANCIES.

(1) **Vacancies:** The office of a commission member, including that of the mayor, shall become vacant upon his death, resignation, removal from office in any manner authorized by law or forfeiture of office, such forfeiture to be declared only by the remaining members of the commission.

(2) **Forfeiture of office:** The commission shall declare a commission seat forfeited if a commission member:

(a) Lacks at any time during the term of his office any qualifications for office prescribed by this charter or by law;

(b) Violates any express prohibition of this charter;

(c) Misses three (3) consecutive regular scheduled meetings of the commission without being excused by the commission;

(d) Ceases to reside in the Town;

(e) Is no longer qualified as a Town elector.

In judging the grounds for forfeiture of office the commission shall have the power to subpoena witnesses, administer oaths and require the production of evidence. A member of the commission charged with conduct constituting grounds for forfeiture of the office held by such a member shall be entitled to a public hearing on demand, and notice of such hearing shall be published at least one (1) week in advance of the hearing. Decisions made by the Town commission under this section shall be subject to review by the courts.

CHARTER

(3) **Filling of vacancies:** If more than ninety (90) days remain in the term of office, a vacancy in the office of commission member or mayor shall be filled by affirmative vote of not less than a majority of the remaining membership within sixty (60) days from the date on which the vacancy occurred with any qualified elector, who shall serve until his successor is elected by the Town electors at the next regular Town election to fill the unexpired term, if any, of the commission member whose vacancy is being filled. In the event the mayor's office becomes vacant the vice mayor shall become interim mayor with full powers and duties of the mayor as provided by this charter, pending election of a mayor by the commission to serve until his successor is elected by the Town electors at the next regular Town election to fill the unexpired term, if any, of the mayor's office whose vacancy is being filled. The service of the vice-mayor in the capacity of mayor during the interim vacancy in the office of mayor shall not create a vacancy in the office of the vice-mayor. If the vacated seat is that of the vice mayor, upon election of a new commission member, the commission shall elect one of their members to hold the position so vacated.

If less than ninety (90) days remain in the term of office, the commission members may elect not to fill the vacancy as an interim measure.

(4) **Extraordinary vacancies:** In the event of multiple vacancies which reduce the actual membership to less than four (4), the Governor of the State shall appoint an interim commission that shall call a special election to be held not sooner than sixty (60) days nor more than ninety (90) days following the appointment of the interim commission. Said interim commission may, by emergency

MELBOURNE VILLAGE

ordinance, establish procedures for said election, where in their opinion, the same are necessary, to effectuate intention of this charter.

SECTION 2.08. COMPENSATION AND EXPENSES.

Members of the commission, including the mayor, shall serve without salary. The commission may approve payment of actual and necessary expenses incurred by members in the performance of their duties of office.

SECTION 2.09. PROCEDURES.

(1) **Meetings:** The commission shall meet at the Town Hall at such times as it may prescribe, but in no event less than once each month. All meetings shall be open to the public. Special meetings limited to subjects specified in the call may be convened by the mayor, or by three (3) members of the commission and, when practicable, upon not less than twelve (12) hours notice to each commission member and the public.

(2) **Rules and journal:** Transactions of business in meetings, and the duties of officers in connection therewith, will be governed by Robert's Rules of Order (latest revision) which shall be the commission's parliamentary authority. The commission shall keep written minutes of all regular and special meetings, which shall be a public record.

CHARTER

(3) **Voting:** Four (4) members of the commission constitute a quorum, and no action of the commission shall be binding or valid unless adopted by the affirmative vote of a majority of the quorum present, except that five (5) members must vote affirmatively to enact an emergency ordinance. All actions of the commission shall be taken by ordinance, resolution or motion. Voting on ordinances, resolutions, the expenditure of money, and as requested by a member on other items, shall be by roll call and shall be entered in the minutes.

SECTION 2.10. BOARDS AND COMMITTEES.

(1) The commission shall establish boards and committees which shall be advisory except as otherwise specified. Members shall be residents of the Town, appointed by the mayor with the advice and consent of the commission, with such terms and method of reappointment as established by the commission. Appointments shall be without compensation, terminable at the pleasure of the commission. No contractual or fiscal authority shall be delegated to boards or committees except as may be authorized by ordinance.

(2) The commission shall define the functions, duties and responsibilities of each board by ordinance.

MELBOURNE VILLAGE

SECTION 2.11. ACTIONS REQUIRING AN ORDINANCE.

In addition to other acts required by law or by specific provisions this charter to be done by ordinance, those acts of the Town commission shall be by ordinance which:

- (1) Establish the Town budget for the forthcoming fiscal year.
- (2) Provide for a fine or other penalty, or establish a rule or regulation for violation of which a fine or other penalty is imposed.
- (3) Levy taxes authorized by general law.
- (4) Grant, renew or extend a franchise.
- (5) Set service or user charges for municipal services or grant administrative authority for such charges.
- (6) Authorize the borrowing of money not inconsistent with the limitations established in the constitution and general laws of the state.
- (7) Convey, lease or authorize by administrative action the conveyance or lease or any lands of the Town.
- (8) Amend, revise or repeal any ordinance previously adopted, except as otherwise provided herein.

Acts other than those referred to in the preceding enumeration may be done either by ordinance, resolution or motion.

CHARTER

SECTION 2.12. ORDINANCES AND RESOLUTIONS IN GENERAL.

(1) ***Form:*** Every ordinance or resolution shall be introduced in writing and in the form required for final adoption. Each ordinance shall contain but one subject and matters properly connected therewith, which shall be clearly stated in its title. No ordinance shall be revised, amended or repealed by reference to its title only, ordinances to revise or amend shall set out in full the revised or amended act or section or subsection or paragraph of a section or subsection.

(2) ***Procedure:*** An ordinance may be introduced by any member of the commission at any regular or special meeting. Upon introduction of any ordinance a copy shall be distributed to each commission member and a reasonable number of copies shall be available in the Town office and such other public places as the commission may designate. A proposed ordinance shall be read on at least two (2) separate days. The first reading shall be in full, and the second may be by title or in full. Ordinances shall, at least seven (7) days prior to adoption, be noticed once in a newspaper of general circulation in the Town and be noticed on the Town bulletin board. The newspaper notice of proposed enactment shall state the date, time and place of the meeting, the title or titles of proposed ordinances, and the place within the Town where such proposed ordinances may be inspected by the public. Said notices shall also advise that interested parties may appear at the meeting and be heard with respect to the proposed ordinance. A proposed ordinance may be amended or revised at either meeting. However such ordinance shall not be amended or revised so as to change its intent without a full reading at least one (1) week later.

MELBOURNE VILLAGE

(3) **Adoption:** Four members of the commission shall constitute a quorum, and an affirmative vote of a majority of a quorum present shall be necessary to enact any ordinance or adopt any resolution, except that an affirmative vote of five members of the commission is required to enact an emergency ordinance. On final passage the result of the vote shall be entered on the official record of the meeting.

(4) **Effective date:** All ordinances or resolutions shall become effective upon passage, unless otherwise specified therein.

SECTION 2.13. EMERGENCY ORDINANCES:

(1) **Purpose:** To meet a public emergency affecting life, health, property or the public peace, the commission may adopt one or more emergency ordinances, but such ordinances shall not levy taxes; grant, renew or extend a franchise; set service or user charges for any municipal service or authorize the borrowing of money except as provided under the emergency appropriation provisions of Article VI, Financial Procedures, of this charter; or enact or amend land use plans or rezone private real property.

(2) **Form:** An emergency ordinance shall be introduced in the form and manner prescribed for ordinances generally, except that it shall be plainly stated in the preamble that it is 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.

CHARTER

(3) **Procedure:** An emergency ordinance may be adopted on a single reading with or without amendment, or rejected at the meeting at which it is introduced. Emergency ordinances shall become effective upon adoption or at such other date as may be specified in the ordinance.

(4) **Repeal:** Every emergency ordinance, except emergency appropriations, shall automatically stand repealed as of the sixty-first (61) day following the date on which it was adopted, but this shall not prevent re-enactment of the ordinance under regular procedures or, if the emergency still exists, in the manner specified in this section. An emergency ordinance may also be repealed by adoption of a repealing ordinance in the same manner specified in this section for adoption of emergency ordinances.

SECTION 2.14. CODES OF TECHNICAL REGULATIONS.

The commission may adopt any standard code of technical regulations by reference thereto in an adopting ordinance. The procedure and requirements governing such an enacting ordinance shall be as prescribed for ordinances generally, except that the requirement for filing copies of the ordinance shall be construed to include copies of the code of technical regulations as well as of the adopting ordinance, and a copy of each adopted code of technical regulations as well as of the adopting ordinance shall be duly authenticated and recorded.

MELBOURNE VILLAGE

SECTION 2.15. AUTHENTICATION AND RECORDING; CODIFICATION; PRINTING.

(1) **Authentication and recording:** The mayor and the Town clerk shall authenticate by signature, under the Town seal, all ordinances and resolutions adopted by the commission.

(2) **Official records indexed:** The Town clerk shall keep properly resolutions and copies of codes of technical regulations having the force and effect of law. This compilation shall constitute and be designated the "Code of Ordinances of the Town of Melbourne Village, Florida," and may be so cited. Such Code may also be cited as the "Melbourne Village Town Code."

(3) **Codification:** Within two (2) years after the effective date of this revised charter, and at least once every five (5) years thereafter, the commission shall provide for the general codification of all Town ordinances and resolutions have the force and effect of law. The general codification shall be adopted by ordinance and shall be published promptly in bound or loose-leaf form, together with the charter and any amendments or revisions thereto, pertinent provisions of the constitution and other state laws, and such codes of technical regulations and other rules and regulations as the commission may specify.

(4) **Printing of ordinances and resolutions:** The commission shall cause each ordinance and resolution having the force and effect of law and each amendment to this charter to be printed promptly following its adoption, and the printed ordinances, resolutions and charter amendments shall be distributed to Town officers. Copies may be purchased by the public at a reasonable price fixed by the commission.

CHARTER

ARTICLE III. ADMINISTRATIVE OFFICES

SECTION 3.01. GENERAL PROVISIONS.

(1) The commission may establish or discontinue departments, offices or agencies of the Town in addition to those created by this charter, and may prescribe the functions of all such departments, offices or agencies.

(2) Officers and employees shall be appointed by the mayor, with the advice and consent of the commission, and shall hold office during the pleasure of the commission, at such salaries as may be fixed by it, and may be discharged from office or position by the commission at anytime, except where provided by law or charter. The commission shall have the power to prescribe the duties and responsibilities of all such officers and employees of the Town except those prescribed by law.

SECTION 3.02. TOWN ATTORNEY.

There shall be a legal officer appointed who shall serve as legal advisor to the commission, and all Town departments, offices and agencies. The legal officer shall also represent the Town in legal proceedings and shall perform such other duties as are prescribed by this charter or by ordinance.

MELBOURNE VILLAGE

SECTION 3.03. TOWN CLERK-TREASURER.

There shall be a Town clerk-treasurer appointed whose primary duties include, but are not limited to, administering the daily functions of the Town office, giving notice of commission meetings, maintaining the journal of the commission, preparing reports of financial transactions and Town activities, performing accounting and bookkeeping functions of the Town's financial activities, and such other duties as may be prescribed by the commission.

ARTICLE IV. ELECTIONS

SECTION 4.01. QUALIFICATIONS.

Any person who is a resident of the Town and registered through the Brevard County Voter Registration System shall be an elector of the Town.

SECTION 4.02. REGULATING ORDINANCE.

The laws, rules and regulations for the registration of voters and for holding and certifying regular and special municipal elections shall be prescribed by Town ordinance, the same not to be in conflict with the general laws of the State of Florida relating to elections and registration of persons qualified to vote therein.

CHARTER

SECTION 4.03. TIME AND MANNER OF ELECTIONS.

Regular Town elections shall be held on the first Tuesday after the first Monday in November of each year. Candidates for the Town Commission, shall run at large, and the candidate for the office of mayor shall also run at large. Elected members shall take office at the first regular commission meeting immediately following the election.

SECTION 4.04. INITIATIVE AND REFERENDUM.

The electors of the Town shall have the power to propose ordinances to the commission and, if the commission fails to adopt a proposed ordinance without substantive change, to adopt or reject it at a Town election. The electors of the Town shall have the power to require reconsideration by the commission of any adopted ordinance and, if the commission fails to repeal an ordinance so reconsidered, to approve or reject it at a Town election. No power specified in this article shall extend to the budget or to any ordinance relating to appropriation of money, to any levy of taxes, or to salaries of Town officers or employees. The commission, by ordinance, shall provide a system for the exercise of the powers granted by this article to the Town electors. The ordinance shall provide that petitions for the exercise of these powers must be signed by not less than twenty-five percent (25%) of the total number of qualified electors registered to vote at the last regular Town election.

MELBOURNE VILLAGE

SECTION 4.06. RECALL ELECTION.

Any member of the commission may be recalled by the electors of the Town. Grounds for recall are limited to: malfeasance; misfeasance; neglect of duty; drunkenness; incompetence and permanent inability to perform official duties.

Petitions for recall shall name the person to be recalled, contain a statement of grounds for recall in not more than 200 words, and be signed by not less than twenty-five (25%) of the total number of qualified electors registered to vote at the last regular Town election. The commission shall by ordinance establish standards and procedures for conducting a recall election, the same not to be in conflict with State laws.

SECTION 4.06. OATH OF OFFICE.

Before entering upon the discharge of their duties, elected officers shall take before an officer authorized to administer oaths, an Oath of Office substantially in the following form:

"I, _____, do solemnly swear (or affirm) that I will support, protect and defend the Constitution of the United States and of the State of Florida, and the Charter and Laws of the Town of Melbourne Village against all enemies, domestic or foreign, and that I will bear faith, loyalty and allegiance to the same; that I will faithfully perform all the duties of the office

CHARTER

of _____ in the Town of Melbourne Village, upon which

I am about to enter, so help me God."

ARTICLE V. - PLANNING AND ZONING

SECTION 5.01. COMPREHENSIVE PLAN.

(1) **Content:** The commission shall adopt, and may from time to time modify, a comprehensive plan setting forth in graphic and textual form policies to govern the future physical development of the Town. Such plan may cover the entire Town and all its functions and services or may consist of a combination of plans governing specific geographic areas which together cover the entire Town and all of its functions and services.

(2) **Adoption:** Upon receipt from the planning and zoning board of a proposed comprehensive plan or proposed modification of the existing plan, the commission shall consider the recommendations and shall hold a public hearing on the proposed comprehensive plan or modification thereof and may thereafter adopt it by resolution with or without amendment.

(3) **Effect:** The comprehensive plan shall serve as a guide to all future commission action concerning land use and development regulations, expenditures for capital improvements, and urban renewal programs.

(4) **Review:** This comprehensive plan shall be reviewed at least every three (3) years.

MELBOURNE VILLAGE

SECTION 5.02. IMPLEMENTATION OF THE COMPREHENSIVE PLAN.

(1) **Land use and development regulations:** The commission may, by ordinance, adopt land use and development regulations, including but not limited to an official map and zoning and subdivision regulations.

(2) **Urban renewal:** The commission may, by ordinance, provide for redevelopment, rehabilitation, conservation and renewal programs for: (a) the alleviation or prevention of slums, obsolescence, blight or other conditions of deterioration, and (b) the achievement of the most appropriate use of land.

(3) **Commission action:** Before acting on any proposed ordinance concerning land use and development regulations, urban renewal or expenditures for capital improvements where such ordinance refers to a matter covered by the comprehensive plan, the commission shall refer the proposal to the planning and zoning board, which shall, within the time specified by the commission and prior to the public hearing on the proposed ordinance, report its recommendations thereon. Upon adopting any such ordinance, the commission shall make findings and report on the relationship between the ordinance and the comprehensive plan and, in the event the ordinance does not accord with the comprehensive plan, the plan shall be deemed to be amended in accordance with such findings and report.

CHARTER

SECTION 5.03. PLANNING AND ZONING BOARD.

The commission shall by ordinance establish a planning and zoning board which shall make recommendations to the commission on all matters affecting the physical development and improvement of the Town, or any portion thereof, and the location of parks, streets, playgrounds and public works within the Town, and for the adoption of zoning regulations. The board shall constitute the Local Planning Agency for the Town regarding the development, implementation and modification of a comprehensive plan as provided in Sec. 5.01 and 5.02, and shall exercise all other responsibilities as may be prescribed by law.

SECTION 5.04. BOARD OF ADJUSTMENT.

The commission shall by ordinance establish a board of adjustment and shall provide standards and procedures for such board to hear and decide appeals from administrative decisions, petitions for variances in the case of peculiar and unusual circumstances which would prevent the reasonable use of land and such special exceptions as are specifically authorized under the terms of the zoning ordinance and state law.

MELBOURNE VILLAGE

ARTICLE VI. FINANCIAL PROCEDURES

SECTION 6.01. FISCAL YEAR.

The fiscal year of the Town shall begin on the first day of October and end on the last day of September.

SECTION 6.02. SUBMISSION OF BUDGET AND BUDGET MESSAGE.

The Finance committee shall submit to the commission at its first meeting in July of each year a proposed budget for the ensuing fiscal year and an accompanying message.

SECTION 6.03. BUDGET MESSAGE.

The message shall explain the proposed budget both in fiscal terms and in terms of the work programs. It shall outline the proposed financial policies of the Town for the ensuing fiscal year, describe the important features of the budget, indicate any major changes from the current year in financial policies, expenditures, and revenues together with the reasons for such changes, summarize the Town's debt position and include such other material as the Finance committee deems appropriate.

CHARTER

SECTION 6.04. BUDGET FORM AND CONTENTS.

The proposed budget shall provide a complete plan of all Town funds and activities for the ensuing fiscal year and shall be in such form as the commission shall designate. The organization of the budget shall show the breakdown of anticipated revenue and budgeted expenditures by the categories used by the Town in its accounting format with necessary annotations for clarifications. The budget shall be so arranged as to show comparative figures for actual and estimated income and expenditures for the previous fiscal year. It shall indicate in separate sections:

(1) Proposed expenditures for current operations during the ensuing fiscal year, detailed by offices and departments in terms of their respective programs, and the method proposed of financing such expenditures.

(2) Proposed capital expenditures during the ensuing fiscal year detailing by office, department or project the proposed method of financing each such capital expenditure.

SECTION 6.05. COMMISSION ACTION ON PROPOSED BUDGET.

(1) ***Notice and hearing:*** Following a review of the proposed budget the commission shall publish a notice indicating the time and place where copies of the message and proposed budget are available for inspection by the public; and the time and place, not less than two (2) weeks following such publication, for a public hearing on the budget.

MELBOURNE VILLAGE

(2) **Amendment before adoption:** After the public hearing, the commission may adopt the budget with or without amendments. In amending the budget it may add or increase programs or amounts, and may delete or decrease any programs or amounts, except expenditures required by law or for debt service or for estimated cash deficits, provided that no amendment to the budget shall increase the estimated expenditures to an amount greater than the total of estimated income.

(3) **Adoption of budget:** The commission shall, by ordinance, adopt the budget on or before the last day of September of each year. If it fails to adopt the budget by this date, the amounts appropriated for current operations for the fiscal year shall be deemed adopted for the ensuing fiscal year on a month-to-month basis, with all items in it prorated accordingly, until such time as the commission adopts a budget for the ensuing fiscal year.

SECTION 6.06. EFFECT OF FINAL BUDGET; TAX LEVY.

From the effective date of the final budget the amounts stated therein as proposed expenditures shall be and become appropriated to the designated purpose and objects, and the amounts stated therein as amounts to be raised by taxes shall constitute determinations of the amount of tax levies for Town government purposes for the fiscal year. Taxes so levied shall be enacted by resolution upon adoption of the final budget.

CHARTER

SECTION 6.07. AMENDMENTS AFTER ADOPTION.

(1) **Supplemental appropriations:** If, during the fiscal year the Finance committee certifies that there are available for appropriation revenues in excess of those estimated in the budget, the commission by ordinance may make supplemental appropriations for the year up to the amount of such excess.

(2) **Emergency appropriations:** To meet a public emergency affecting life, health, property or the public peace, the commission may make emergency appropriations. Such appropriations may be made by emergency ordinance in accordance with provisions of section 2.13 of this charter. To the extent that there are no available unappropriated revenues to meet such appropriations, the commission may by such emergency ordinance authorize the issuance of emergency notes, which may be renewed from time to time, but the emergency notes and renewals of any fiscal year shall be paid not later than the last day of the fiscal year next succeeding that in which the emergency appropriation was made.

(3) **Reduction of appropriation:** If, at any time during the fiscal year it appears probable that the revenues available will be insufficient to meet the amount appropriated same shall be reported to the commission by the Finance committee without delay. Such report shall indicate the estimated amount of the deficit, and indicate appropriate remedial action. The commission shall then take such action as it deems necessary to prevent or minimize any deficit, and for that purpose it may, by resolution reduce one (1) or more appropriations.

MELBOURNE VILLAGE

(4) **Transfer between appropriations:** At any time during the fiscal year the commission may, by resolution, transfer part or all of any unencumbered appropriation balance from one department, office or program to another.

(5) **Limitations; effective date:** No appropriation for debt service may be reduced or transferred except that such reduction or transfer be surplus. No appropriation may be reduced below any amount required by law to be appropriated by more than the unencumbered balance thereof. The supplemental and emergency appropriations and reduction or transfer of appropriations authorized by this section may be made effective immediately upon adoption.

SECTION 6.08. LAPSE OF APPROPRIATIONS.

Every appropriation, except appropriation for capital expenditure or balance thereof, shall lapse at the close of the fiscal year to the extent that it has not been expended or encumbered. An appropriation for a capital expenditure shall continue in force until the purpose for which it was made has been accomplished or abandoned; the purpose of any such appropriation shall be deemed abandoned if three (3) years pass without any disbursement from, or encumbrance of, the appropriation.

CHARTER

SECTION 6.09. BUDGET ADMINISTRATIONS:

(1) **Work programs and allotments:** The Town commission is responsible for the administration of the budget, and at such times as it shall specify, each department, office or agency shall submit work programs for the ensuing fiscal year showing the requested allotments of its appropriation by periods within the year. The Finance committee shall review such allotments and recommend to the commission such allotments with or without revision as early as possible in the fiscal year. The Finance committee may recommend that the commission revise such allotments during the year if it deems it desirable, and the commission shall revise them to accord with any supplemental, emergency reduced, or transferred appropriations made pursuant to section 6.07.

(2) **Payments and obligations prohibited:** No payment shall be made or obligation incurred against any allotment or appropriation except in accordance with appropriations duly made and unless the Treasurer first certifies that there is a sufficient unencumbered balance in such allotment or appropriation, and that sufficient funds therefrom are or will be available to cover the claim or meet the obligation when it becomes due and payable. Any authorization of payment or incurring of obligation in violation of the provisions of the charter shall be void and any payment so made illegal; such action shall be cause for removal of any officer who knowingly authorized or made such payment or incurred such obligation, and he shall also be liable to the Town for any amount so paid. However except where prohibited by law, nothing in this charter shall be construed to prevent the making or authorizing of payments or making of contracts for capital improvements to be financed wholly or partly by the

MELBOURNE VILLAGE

issuance of bonds or to prevent the making of any contract or lease providing for payment beyond the end of the fiscal year, provided that such action is made or approved by ordinance.

SECTION 6.10. TAX AUTHORITY.

The commission shall have the full power and authority to levy taxes upon all property, privileges, and professions which are taxable in accordance with the laws of the State and of Town ordinances.

SECTION 6.11. TAX ASSESSMENT AND COLLECTION.

The commission is authorized to provide by ordinance for the assessment or collection, or both, of Town ad valorem taxes by the Brevard County Tax Collector and Assessor. Taxes assessed against property shall constitute a lien against the property, and tax liens may be enforced and taxes collected as authorized by law.

SECTION 6.12. SPECIAL ASSESSMENTS.

The commission is authorized to provide improvements, and to levy and collect special assessments against the property benefitted as prescribed by Florida laws and Town ordinances. Special assessments against property shall constitute a lien against the property, equal in status to a tax lien, and may be enforced and collected as authorized by law.

CHARTER

SECTION 6.13. DEPOSITARIES AND INVESTMENTS.

Depositaries of Town funds for demand deposit and time deposit accounts shall be selected by the commission. The policy for investments of Town funds shall be established by commission resolution.

SECTION 6.14. SURETY BONDING.

The commission shall establish which Town positions shall be bonded, and the amount of such bond.

SECTION 6.15. AUDITS.

The commission shall designate a qualified certified public accountant who shall make an independent audit of accounts and financial transactions of the Town government as of the end of each fiscal year. Should the State of Florida make such an audit, the commission may accept such audit as satisfying the requirement of this section.

MELBOURNE VILLAGE

ARTICLE VII. GENERAL PROVISIONS

SECTION 7.01. SEPARABILITY CLAUSE.

If any section or part of section of this charter shall be held invalid by a court of competent jurisdiction, such holding shall not affect the remainder of this charter nor 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 a section may be inseparably connected in meaning and effect with the section or part of section to which such holding shall directly apply.

SECTION 7.02. LEGALITY.

When any section of any article of this charter is rendered invalid, or is subsequently prohibited by federal or state laws, or by a decision of a court of last resort, the commission shall by resolution amend this charter and related ordinance provisions to be in agreement with said legal decisions without employing the provisions of Sec. 7.04 for amending the charter.

SECTION 7.03. HEADINGS AND SUBHEADINGS.

The headings and subheadings as used herein are for reference purposes only and shall not be construed to limit any of the sections, paragraphs or provisions hereof.

CHARTER

SECTION 7.04. CHARTER AMENDMENTS AND REVISIONS.

This charter may be amended or revised in either of two ways:

(1) **Initiation by ordinance:** The commission may, by ordinance, propose amendments or revisions to any part or all of this charter, except prescribing boundaries, and upon passage of the initiating ordinance shall place the proposed amendment or revisions to a vote of the Town electors at the next regular election held within the Town, or at a special election called for that purpose. Amendment of boundaries resulting from annexation done in accordance with general law shall be by ordinance of the commission and shall not be subject to a vote of the electors except as provided by general law.

(2) **Initiation by petition:** The electors of the Town may propose amendments or revisions to this charter by written petition signed by at least twenty-five percent (25%) of the total number of qualified voters registered to vote in the last regular Town election.

(a) **Form and content:** All papers of a petition shall be uniform in size and style and shall be assembled as one (1) instrument for filing. Each signature shall be executed in ink 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 proposed charter amendment.

(b) **Affidavit of circulator:** Each paper of a petition shall have attached to it when filed an affidavit executed under oath by the circulator thereof stating that he personally circulated the paper, the number of signatures thereon, that all the signatures were affixed in his presence, that he believes

MELBOURNE VILLAGE

them to be the genuine signatures of the persons whose names they purport to be and that each signer had an opportunity before signing to read the full text of the proposed charter amendment or revision.

(c) **Certification of petition:** Upon certification of the sufficiency of the petition by the Town clerk, such certification to include the validity of the names on the petition as qualified voters registered to vote in the last regular Town election, the commission shall place the proposed amendment or revision to a vote of the electors not less than sixty (60) days after certification at a regular Town election or at a special election called for such purpose.

Upon adoption of an amendment or revision to the Town charter by a majority of the electors voting in a referendum, the commission shall have the amendment or revision incorporated into the charter and shall file the revised or amended charter with the Department of State, at which time the revised or amended charter shall take effect.

SECTION 7.05. STATE LAWS AS AMENDED.

All references to specific state laws shall be construed to mean such state laws as amended.

SECTION 7.06. PENALTIES.

Violations of ordinances shall be punishable in accordance with the uniform fines and penalties set by general law and the ordinances of the Town.

CHARTER

SECTION 7.07. ETHICS CODE.

Elected officials and employees of the Town shall be subject to the standards of conduct for public officers and employees set by general law. in addition, the commission may, by ordinance, establish a code of ethics for officials and employees of the Town which may be supplemental to general law, but which in no case diminish the provisions of general law.

SECTION 7.08. BIRD SANCTUARY.

All territory embraced within the corporate limits of the Town shall be a bird sanctuary.

ARTICLE VIII. TRANSITIONAL PROVISIONS

SECTION 8.01. FORMER CHARTER PROVISIONS; CONFLICT WITH GENERAL LAWS.

All provisions of Chap. 57-1578, as amended, when not embraced herein in original or modified form shall become ordinances of the Town, subject to modification or repeal in the same manner as other ordinances; except that any provision in conflict with general laws of the State of Florida is automatically repealed.

MELBOURNE VILLAGE

SECTION 8.02. ORDINANCES AND RESOLUTIONS PRESERVED.

All Town ordinances and resolutions or parts thereof in effect upon the adoption of this charter, to the extent not inconsistent with it, shall remain in force until modified or repealed as herein provided.

SECTION 8.03. ORDINANCES IN CONFLICT WITH THIS CHARTER.

Any ordinance or parts of ordinances in conflict with this charter shall be amended to be in agreement with this charter, with the charter provisions prevailing pending modification or repeal of said ordinance or parts of ordinances in the manner herein prescribed.

SECTION 8.04. PENDING MATTERS.

All rights, claims, actions, orders, contracts and legal or administrative proceedings involving the Town shall continue and remain in full force and effect, except as modified pursuant to the provisions of this charter. All right, title and interest in property, real or personal, uncollected taxes due, claims, judgements, decrees, liens, suits, actions and choses in action, held or owned by the existing Town shall pass to, and the same are hereby vested in, the Town continued under this revised charter.

CHARTER

SECTION 8.05. OBLIGATIONS AND CONTRACTS NOT IMPAIRED.

No debt or obligation of contract of the Town shall be impaired as a result of the adoption of this charter, but all such debts and obligations shall pass to and be binding upon the Town which is hereby organized and continued.

SECTION 8.06. RIGHTS OF OFFICERS, EMPLOYEES AND AGENTS.:

Nothing in this charter, except as otherwise specifically provided, shall affect or impair the rights or privileges of persons who are Town officers or employees at the time of adoption. Elected officers shall continue to hold their offices and discharge the duties thereof until their successors are elected and qualified as the result of either a special or regular election.

SECTION 8.07. DELETION OF OBSOLETE ITEMS.

The commission shall have the power by resolution to delete from this Article any section, including this one, when all events to which the section to be deleted is, or could become, applicable have occurred.

MELBOURNE VILLAGE

SECTION 8.08. EFFECTIVE DATE OF THIS CHARTER.

This charter shall become effective when approved by the Town electors and filed with the Secretary of State of Florida in the manner prescribed by law, such filing to occur within seven (7) days subsequent to the affirmative vote of the Town electorate.