



CITY OF DELAND
2024 CHARTER REVIEW COMMITTEE
FEBRUARY 15, 2024 AT 6:00 PM
CITY HALL, COMMISSION CHAMBERS
120 SOUTH FLORIDA AVENUE

AGENDA

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

NEW BUSINESS

1. Appointment of Committee Chair.
2. Set Meeting Schedule.
3. Commence Charter Review.

GENERAL COMMENTS

ADJOURNMENT

Notice of special meetings, workshops, changes in dates, times or locations are provided by separate Public Notices, which are posted at City Hall and on the City's web site.

The City of DeLand may take action on any matter during this meeting, including items that are not set forth within this agenda.

In accordance with the American Disabilities Act, persons needing a special accommodation in order to participate in the proceedings should notify the City Clerk's Office at least 48 hours in advance of the meeting: 626-7132.

Assisted Listening System receivers are available for the hearing impaired, and can be obtained from the City Clerk.

If you wish to obtain information regarding the Committee's Agenda, please call the City Clerk's Office: 626-7132.

We respectfully request that all electronic devices and cell phones be turned OFF during City Commission meetings.

Electronic Information! Agendas are now available on the City's web page: www.deland.org.



Memorandum

TO: Charter Review Committee

FROM: Julie A. Hennessy, City Clerk-Auditor

DATE: February 19, 2024

RE: 2024 Charter Review

Section 159 of the City's Charter provides, in pertinent part, "At least once every ten years the city commission shall appoint a Charter Review Committee to study this Charter and recommend changes, if any, to be proposed for approval by the voters as provided by general law."

This 2024 Charter Review process has been implemented so that it is coincident with the City's 2024 General Election, thereby eliminating the need for a separate election just for changes to the Charter. In order to be placed on the ballot for the City's August 20, 2024 General Election, the ballot questions relating to any Charter questions have to be in the hands of the Volusia County Supervisor of Elections no later than June 14, 2024. Prior to that, any proposed changes have to be adopted by the City Commission in the form of ordinances, which require two (2) public hearings, which would have to occur on May 6 and 20, 2024, at the latest. Thus, to meet these deadlines, the Charter Review Committee must finish its work no later than April 12, 2024. This timeline is set out as follows:

Feb. 15 – Apr. 10, 2024	Charter Review Committee Meetings
Apr. 12, 2024	Staff prepares ordinances for City Commission approval
May 6 & 20, 2024	First and second reading of ordinances
June 14, 2024	Deadline to get ballot questions to DOE
Aug. 20, 2024	Charter Referendum Election

The 2005 Charter Review Committee completed an exhaustive, line-by-line review of the City's Charter. Such an exhaustive review may not be necessary for this current review process.

Below is a list of changes recommended by staff, to be considered along with any issues the Committee may identify.

1. Sec. 4. - General powers.

(7) To license professions, businesses, occupations and privileges carried on and engaged in within its corporate limits ~~and to levy and collect business taxes upon the same~~, independently of the amount imposed by the State of Florida or any political subdivisions thereof.

I am working with Darren to replace the BTR process with a Business Licensing process that will better serve the needs of city departments.

(17) To drain swamp, marsh, overflow and low lands within or without the city for the betterment of sanitary conditions within the city.

This provision seems antiquated as wetland alteration is regulated by the state.

(33) To provide for the punishment of persons who may at any time disturb the peace of the city, and to do or regulate any other matter or thing that may tend to promote the health, welfare, prosperity and morals of the city, ~~and to prohibit and suppress all bawdy houses and disorderly houses and any exhibition, show, circus, parade or amusement contrary to good morals and to prohibit and suppress the distribution, sale or possession of obscene pictures and literature.~~

This provision seems antiquated and we are limited to how we can regulate obscene pictures and literature by the First Amendment.

Suggestion to make the entire Charter more gender neutral. As an example, Sec. 44 – Fire Department.

Consider changes to Sec. 11 re City Commission salaries.

Consider changes to Sec. 12 re meetings, to allow for the cancellation of one meeting per month under certain circumstances.

Consider change to Sec. 12 re meetings, to allow for the meetings to start earlier in the evening, i.e., 5:30 or 6:00 P.M.

SECTION 34

The city manager shall ~~be the chief administrative officer~~ serve as the City's Chief Executive Officer and head of the administrative branch of the city government ~~except as herein provided~~. He shall be responsible to the city commission for ~~the proper administration of all affairs of the city~~ the professional management of the city and providing leadership to carry out the policies and

procedures as established by the city commission and to that end he/she shall have the power and shall be required to:

Amend Sec. 39 to authorize the City Clerk and/or his/her designee to administer oaths of office.

ARTICLE IV. – ADMINISTRATIVE OFFICERS

Sec. 40 – City finance director; appointment, compensation, duties.

There shall be a city finance director who shall be appointed by and shall be under the direction and supervision of the city manager. The finance director shall receive a salary to be fixed by the ~~city commission~~ city manager.”

The finance director shall submit to the city commission once each quarter a complete and comprehensive report covering the last preceding ~~month~~ quarter of the receipts and expenditures and of the financial condition of the city.”

ARTICLE VII. – BUDGET

Sec. 58 – Budget establishes appropriations.

“... the city manager shall have the authority to transfer part or all of any unencumbered appropriation balance among programs either within or between departments within the same fund. Such transfers shall not require approval by the City Commission; however, at the end of the fiscal year the city manager shall report such transfers to the City Commission.” ~~funds during the fiscal year to. another department budget within the same fund so long as the cumulative funds transferred out of any department budget during the fiscal year do not exceed five percent of that department’s budget to~~ Such transfers shall not require approval by the City Commission; however, at the end of the fiscal year the City manager shall report such transfers to the City Commission.”

ARTICLE VIII. – FINANCE, GENERAL

Sec. 63 – Competitive bidding; exceptions.

“Notice of requests for competitive bids shall be ~~advertised for two consecutive weeks. The first of these notices shall appear not less than ten days prior to said bid opening. The advertisement shall be placed in a newspaper published or distributed in the city and~~ published on the city’s e-procurement website or once in at least one official newspaper having general circulation in the city and at least ten days prior to said bid opening. The notice shall request bids upon the work to be performed, or on the goods, supplies or materials to be purchased by the city. All contracts shall be awarded to and all purchases shall be made from the lowest ~~and best~~ responsible bidder.”

“Also excepted from the requirement of competitive bidding are purchases ~~from other political bodies, including state and federal government, counties, municipalities, authorities, districts and school boards, and their agencies and divisions, and purchases from qualified vendors of products selected through competitive bidding procedures conducted by these other government bodies. This is~~

intended to provide express authority for cooperative purchasing and bidding arrangements with the previously identified governments, authorities and their agencies.”

“utilizing a contract for goods, services or construction services from State of Florida or Federal GSA contracts, as well as contracts which have been competitively bid and awarded by any state, county or municipal governments (and any other governmental agency or political subdivision), state colleges and universities, districts and school boards, or national government agency , national cooperative procurement organizations or procurement associations, provided that the prices and other terms of the city procurement must be fair and reasonable. Goods and services may be procured without competitive bidding pursuant to a piggyback contract subject to the following conditions: 1) The contract being piggybacked must have been the result of a competitive solicitation. 2) The contract being piggybacked must contain a firm unit price or rates for each type of good or service being procured by the city. Piggyback contracts will not be used to make purchases based on contracts that merely contain prequalified lists of vendors without also setting forth rates or other form of firm pricing. 3) All terms and conditions of the city’s contract, including unit pricing and rates, must be equal to or better than the terms and conditions of the contract being piggybacked. This section does NOT authorize the use of contracts where the contracts were awarded based on quotations, sole source, emergency procurements, or unique circumstances.”

“If such a service is used to procure bids, notice of the commencement of the competitive process shall be given for two consecutive weeks in a newspaper distributed with the City of Deland, and the first of these notices shall appear on the city’s e-procurement website or once in a newspaper distributed with the City of Deland not less than ten days prior to the commencement of the competitive process.”

SECTION 59.1

The city commission shall establish a pay plan for all permanent employee positions of the city and shall review that pay plan not less often than every ~~five~~ three years or more frequently as deemed necessary by the city manager.

CHARTER AND RELATED LAWS¹

Sub-Part A

ARTICLE I. PURPOSE OF CHARTER; INCORPORATION AND CORPORATE LIMITS; FORM OF GOVERNMENT; POWERS

Sec. 1. Purpose of Charter.

This Charter is ordained and established by the people of the City of DeLand, Florida, to promote the general welfare and common good of the community by providing the framework for a municipal corporation to exercise municipal home rule powers under the Constitution and laws of the State of Florida.

(Ord. No. 88-07, § 1, 1-25-88)

Sec. 1.05. Gender.

In the construction of this Charter, a word importing the masculine gender only shall be construed to include the feminine.

¹Editor's note(s)—Sub-part A contains revisions to the Charter prescribed by Ord. No. 2014-14, adopted by the city commission May 5, 2014, approved by the electorate Aug. 26, 2014, and effective Sept. 15, 2014. Sec. 1 of the ordinance provided for the amendment of sec. 4(7), (37), (39) and the repeal of sec. 4(27) and (29) of the Charter; sec. 2 amended sec. 6; sec. 3 amended sec. 7; sec. 4 amended sec. 11; sec. 5 added sec. 13.5; sec. 6 repealed sec. 36; sec. 7 amended sec. 39; sec. 8 amended sec. 59.1; sec. 9 amended sec. 63; sec. 10 amended sec. 67; sec. 11 amended sec. 159. Sub-part A contains revisions to the Charter prescribed by Ord. No. 2008-34 (revised secs. 67 and 69 of the Charter), adopted by the city commission on Aug. 18, 2008 and approved by electorate on Nov. 4, 2008. Sub-part A contains revisions to the Charter prescribed by the following ordinances, all of which were adopted by the city commission June 20, 2005, and approved by the electorate Oct. 11, 2005: Ord. No. 2005-29 (revised secs. 67 and 69); Ord. No. 2005-30 (revised secs. 4(19), 7, 36, 37 and 62); Ord. No. 2005-31 (revised secs. 4(24), 4(49), 31, 40, 58, 59.1 and 60); Ord. No. 2005-32 (revised secs. 8, 63, 127, 143, 145 and 158); Ord. No. 2005-33 (revised sec. 11); Ord. No. 2005-34 (revised secs. 12, 33, 78, 86 and 87); and Ord. No. 2005-35 (repealed sec. 136 and revised secs. 133 and 140). Sub-part A contains revisions to the Charter prescribed by Ord. No. 99-14 (revised sec. 67 of the Charter), adopted by the city commission on May 17, 1999. Sub-part A contains revisions to the Charter prescribed by Ordinance Nos. 97-32 (revised sec. 8 of the Charter), 97-33 (revised sec. 11 of the Charter), and 97-34 (created a new sec. 1.05; revised secs. 33, 51, 137, 144, and 159 of the Charter), approved by the electorate Sept. 30, 1997, and effective Oct. 1, 1997; and revisions to secs. 67, 69 and 73 prescribed by Ord. No. 97-37, adopted by the city commission on Sept. 3, 1997. See additional editor's note at the end of sub-part A of this Charter.

(Ord. No. 97-34, § 1, effec. 10-1-97)

Sec. 2. Present municipal corporation continued; corporate limits.

The present municipal corporation of the City of DeLand in Volusia County, Florida, as previously incorporated, is hereby continued in existence. The city is and shall be a body corporate and politic and as such have all rights and powers of local self-government now or hereafter provided by the Constitution and laws of the State of Florida and by this Charter.

The corporate limits of the city shall be as described in Chapters 70-648, 71-601, 71-603 and 73-442, Laws of Florida, as amended. The property descriptions in those special acts are hereby adopted by reference and made a part of this section as fully as if set forth verbatim in this section. The corporate limits shall also include all property added to or subtracted from the city through annexation or contraction in accordance with state law, and the property descriptions of all ordinances annexing property to or contracting property from the city are hereby adopted by reference and made a part of this section as fully as if set forth verbatim in this section.

(Sp. Acts, Ch. 71-601, § 2; Sp. Acts, Ch. 71-603, § 1; Sp. Acts, Ch. 73-442, § 1; Ord. No. 88-07, § 1, 1-25-88)

Sec. 3. Form of government.

The municipal government provided by this Charter shall be known as a "commission-manager government." Subject only to the limitations imposed by the Constitution and laws of this state and by this Charter, all powers of the city shall be vested in an elected commission, herein referred to as "the city commission" or "the commission." All powers of the city shall be exercised in the manner provided by this Charter or, if not provided herein, by ordinance.

(Ord. No. 88-07, § 1, 1-25-88)

Sec. 4. General powers.

The city shall have the powers, functions and immunities granted to municipal corporations by the Constitution and general laws of this state, together with the implied powers necessary to carry into execution all the powers granted. The enumeration of particular powers by this Charter shall not be deemed to be exclusive, and in addition to the powers enumerated herein or implied hereby, or appropriate to the exercise of such powers, it is intended that the city shall have and exercise all powers which it would be competent for this Charter specifically to enumerate. The following are among the powers of the city, subject to the limitations hereinafter expressed:

- (1) To purchase, lease, receive and hold property, real, personal and mixed, both within and without its corporate limits, and to lease, sell or otherwise dispose of the same for the benefit of the city, except that any public utility can be sold only after a referendum of registered voters has approved the sale.
- (2) To pass such ordinances as may be necessary to protect and preserve peace and order upon all property owned, leased, managed or controlled by the city outside its corporate limits.
- (3) To acquire by condemnation any property necessary for public use, either within or without its corporate limits.
- (4) To levy, assess and collect taxes and assessments.
- (5) To invest the surplus funds of the city.

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- (6) To borrow money and to issue bonds, revenue certificates and other evidences of indebtedness, as security therefor, as herein provided.
 - (7) To license professions, businesses, occupations and privileges carried on and engaged in within its corporate limits and to levy and collect business taxes upon the same, independently of the amount imposed by the State of Florida or any political subdivisions thereof.
 - (8) To furnish within and without its corporate limits all local public services and utilities, and to levy charges for the use of such services and utilities.
 - (9) To purchase, hire, construct, own, maintain, operate, regulate or lease public utilities.
 - (10) To grant franchises of all kinds and descriptions, exclusive and nonexclusive, and to tax and regulate the exercise thereof.
 - (11) To establish, impose and enforce rates and charges for gas, electricity, water, sewage, garbage and trash collection and other public utilities, services or conveniences, operated, rendered or furnished by the city or any person, firm or corporation, including other municipal corporations; however, this subsection does not apply to public utilities regulated by the Florida Public Service commission. In the event that the rates and charges for gas, electricity, water, sewage, garbage and trash collection or other public utility service charges are not paid for any such services provided by the city, the city shall have the power to place a lien on the property served for such charges, with such liens to be superior to all other liens except liens for ad valorem taxes.
 - (12) To exercise all police powers granted to municipalities by the Constitution and laws of the State of Florida, and to adopt ordinances, rules and regulations necessary to maintain and preserve the public health, peace, safety and welfare, including ordinances regulating the keeping of domestic and other animals within its corporate limits, and to impose penalties and forfeitures to carry the same into effect.
 - (13) To own, lease, operate, construct, maintain, regulate and improve hospitals, libraries, industrial parks, trailer parks, parking lots, parks, playgrounds, airports, golf courses, wharfs, swimming pools, stadiums, auditoriums, civic centers, aquariums, museums, recreational centers and other cultural, educational, recreational and municipal buildings, facilities and projects of all kinds and descriptions, and to sell or lease such institutions, buildings, facilities, or properties inside or without the corporate limits.
 - (14) To open, extend, close, vacate, abandon, construct, pave, operate, improve, repair and maintain, streets, roads, alleys, sidewalks, promenades, board walks, bridges, parking areas and facilities and public thoroughfares of all kinds and descriptions and to regulate and to control the use, encroachments in, upon and under, and the obstruction thereof.
 - (15) To define, prevent and abate all nuisances.
 - (16) To provide police, fire, building inspection and similar protection and services, and to set and collect fees and charges for such services.
 - (17) To drain swamp, marsh, overflow and low lands within or without the city for the betterment of sanitary conditions within the city.
 - (18) To construct, regulate, improve and maintain canals and other waterways, and to control the development and use of such natural or artificial streams or bodies of water inside or outside its corporate limits.
 - (19) To establish and regulate a uniform system of employment practices.
 - (20) To regulate and restrict the height, number of stories, and size of buildings and other structures, the percentage of a lot that may be occupied, the size of yards, courts, and other open spaces, the density of population, and the location, nature and use of buildings, structures, land and water for trade,

industry, residence, type of residence or other purposes, for the purpose of promoting the health, safety, morals and general welfare of its residents.

- (21) To make local improvements of all kinds and descriptions, and to impose and enforce liens and assessments for the payment of the same.
- (22) To provide a pension or retirement plan, hospitalization and other insurance for any of its officers and employees, and to pay the whole or any part of the cost and premiums thereof.
- (23) To foster, develop and enhance the attractions of the city, to levy a publicity tax not exceeding in amount one mill and to advertise and promote the interest of the municipality and its residents through legitimate and recognized media inside and outside the city, or to expend from general funds an amount not to exceed one mill.
- (24) Except for an emergency declared by the City Commission, to borrow money for current operating expenses for a period not longer than the remainder of the fiscal year in which the loan is made, and this power shall be in addition to the other powers to borrow money set forth in this Charter, or granted by general law.
- (25) To enter into contracts and agreements over a period of years for the purchase of supplies and equipment.
- (26) To dispose of seized, abandoned or captured property.
- (27) Reserved.
- (28) To extend or enlarge the corporate limits of the city and to include therein contiguous areas as provided by general law.
- (29) Reserved.
- (30) To consolidate with any contiguous municipality in the manner provided by the general laws of the state.
- (31) To regulate in such manner as the city commission may deem proper the manufacture, sale, transportation and possession of intoxicating, spirituous, vinous and malt liquors within the city, to limit the number, location and manner of use of any permits issued for any such purposes, and to revoke any such permits when the city commission deems such revocation advisable for the protection of the morals, health, peace, safety or general welfare of the city in accordance with general law.
- (32) To create a housing authority and to provide the powers and duties thereof by ordinance.
- (33) To provide for the punishment of persons who may at any time disturb the peace of the city, and to do or regulate any other matter or thing that may tend to promote the health, welfare, prosperity and morals of the city, and to prohibit and suppress all bawdy houses and disorderly houses and any exhibition, show, circus, parade or amusement contrary to good morals and to prohibit and suppress the distribution, sale or possession of obscene pictures and literature.
- (34) To license, control, tax and regulate traffic and sales upon the streets, sidewalks, parks and public places within the city and to regulate vendors upon streets, sidewalks, parks and public places.
- (35) To license, regulate, limit, franchise, register, control, or provide taxis, buses and other means of public transportation operated within the city, to control and register the drivers thereof, and to require that all vehicles used for the public transportation of persons shall be covered by a bond, as fixed by ordinance, for the protection of passengers and the public.
- (36) To regulate the operation and use of vehicles on any of the city streets, parts of streets or public ways.
- (37) To adopt and enforce sanitary regulations.

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- (38) To regulate the use of docks and boat landings within the city.
 - (39) To require all lands, lots and other premises within the city to be kept clean, sanitary and free from trash, refuse, weeds, and other wild growth, or to make them so at the expense of the owner, assessing the cost thereof against the property, the city to have a lien therefore, until discharged by payment, for any and all expenses incurred in so cleaning property and lots and making the same sanitary and free from the trash, refuse, weeds, and other wild growth.
 - (40) To regulate, restrain or prevent manufacturing which is potentially dangerous because it could create or produce fires or is obnoxious or offensive in nature.
 - (41) To condemn and order to be demolished and removed, or to be put in a state of sound repair, any and all dilapidated, unsanitary or unsafe buildings or structures, and if the owners of such buildings or structures fail to obey such order, then at the discretion of the city commission to demolish and remove the same or put same in sound state of repair and assess the entire cost thereof against said property, said assessment to be a lien against the property, superior to all other liens except liens for ad valorem taxes, assessed until paid.
 - (42) To assess, levy and collect taxes within the limitations of this Charter upon all property, privileges, professions and businesses within the city, including those not taxed for state purposes, unless exempt from taxation under the state Constitution.
 - (43) To acquire title to submerged lands and riparian rights and easements or rights-of-way with or without restrictions inside or outside the city.
 - (44) To prevent pollution or threatened pollution of its water supply or any water and any stream, canal or underground waters.
 - (45) To regulate, restrict or prohibit cemeteries and the burial of the dead within the city.
 - (46) To furnish any and all local public services.
 - (47) To acquire, own, lease, operate, construct and maintain incinerators, sanitary land fills or other means of garbage and trash disposal inside or outside the city.
 - (48) To regulate the speeds at which motor vehicles, bicycles and other conveyances and methods of transportation may be operated within city limits.
 - (49) To enforce any of the liens accruing to the city as herein provided or as provided by general law of the state, in any manner authorized by laws for the enforcement of liens, including the manner provided elsewhere in this Charter, and if no interest rate is specified herein or by ordinance, the liens shall bear interest at the statutory rate set for liens each year pursuant to Section 55.03, Fla. Statutes, with such liens to be superior to all other liens except liens for ad valorem taxes.
 - (50) By ordinance or by resolution of the governing bodies of each of the governments affected, any function or power of a county, municipality or special district, may be transferred to or contracted to be performed by another county, municipality or special district, as provided by general law.
 - (51) To regulate and enforce all traffic and motor vehicle laws and ordinances of the city, including laws and ordinances relating to motor vehicles, bicycles and all other conveyances and methods of transportation, within said city limits and even where extending outside said city limits, to the far boundary of the public right-of-way of all perimeter streets, roads, highways and public thoroughfares contiguous to the boundaries of the city.

(Ord. No. 88-07, § 1, 1-25-88; Ord. No. 2005-30, § 1, 6-20-05, effec. 10-11-05; Ord. No. 2005-31, § 2, 6-20-05, effec. 10-11-05; Ord. No. 2014-14, § 1, 5-5-14, effec. 9-15-14)

ARTICLE II. THE CITY COMMISSION

Sec. 5. Number; selection; term.

The city commission shall consist of five commissioners, one of whom shall be elected as the mayor-commissioner, and all of whom shall be elected from the city at large. Each commissioner shall have the qualifications defined in Section 6 and each commissioner shall serve for a term of four years or until his successor has been elected and qualified. Whenever the word "commissioner" is used in this Charter it shall include and refer to the mayor-commissioner, if applicable.

(Ord. No. 88-07, § 1, 1-25-88)

Sec. 6. Qualifications and disqualifications.

Each member of the city commission shall be a registered elector of the city. Any member of the city commission who ceases to have the qualifications herein imposed for members of the city commission or who, while in office, is convicted of a crime involving moral turpitude, shall forfeit his office and his seat shall immediately become vacant. Absence from three consecutive, regular meetings of the city commission, as certified by the city clerk, shall cause the seat of such commissioner to become vacant, unless such absence is excused by a resolution duly adopted by the city commission.

(Ord. No. 88-07, § 1, 1-25-88; Ord. No. 2014-14, § 2, 5-5-14, effec. 9-15-14)

Sec. 7. Presiding officer, mayor-commissioner and vice-mayor.

The mayor-commissioner shall preside at all meetings of the city commission and shall perform such other duties, consistent with his office, as may be delegated to him by the city commission. He shall have a voice and a vote in the proceedings of the city commission, but shall not have any veto power. He shall be recognized as the head of the city government for all ceremonial purposes and by the governor of this state for purposes of military law. He shall execute all instruments to which the city is a party, on behalf of the city, unless otherwise provided by this Charter or by resolution. He shall have the authority to issue, sign and present certificates and proclamations. He shall not have any regular administrative duties, except as may be authorized in this Charter. A vice-mayor shall be elected by the city commission from its own members at its organizational meeting. In the temporary absence from the city or in the temporary disability of the mayor-commissioner, his duties shall be exercised by the vice-mayor. The temporary absence or disability of the mayor-commissioner shall be certified to the city commission by the city manager.

(Ord. No. 88-07, § 1, 1-25-88; Ord. No. 2005-30, § 2, 6-20-05, effec. 10-11-05; Ord. No. 2014-14, § 3, 5-5-14, effec. 9-15-14)

Editor's note(s)—Ord. No. 2014-14, § 3, approved at referendum Aug. 26, 2014, and effective Sept. 15, 2014, amended the catchline of sec. 7 from "Presiding officer, mayor-commissioner and mayor-pro tem" to "Presiding officer, mayor-commissioner and vice-mayor."

Sec. 8. Election of commission; vacancy; term.

At all elections the candidates shall be grouped by seats on the commission. Seat Number 1 shall be for the office of mayor-commissioner. Seat Numbers 2 through 5 shall be for the office of commissioner. All members of the commission shall be elected for terms of four years.

If a vacancy occurs in the city commission and there is more than 28 months remaining in the term, or if a resignation is provided to the City Clerk by a sitting city commissioner at least 28 months prior to the expiration of that commissioner's term, which resignation is effective at least 24 months prior to the expiration of that commissioner's term, then the city commission shall, within 60 days from the date of the vacancy, call for a special election to elect the replacement. In all other instances in which a vacancy occurs in the city commission, the city commission shall, within 45 days of the date of the vacancy, elect by majority vote of the remaining commissioners a replacement commissioner. Any replacement commissioner elected or appointed under this section shall take office immediately upon his or her appointment or election and qualification and shall serve for the remainder of the term of office of the commissioner whom he or she replaced.

(Ord. No. 88-07, § 1, 1-25-88; Ord. No. 97-32, § 1, effec. 10-1-97; Ord. No. 2005-32, § 1, 6-20-05, effec. 10-11-05)

Sec. 9. Vacancy of more than three commissioners.

If three or more seats on the city commission shall be vacant at the same time, the governor shall appoint successor commissioners to fill the vacancies on the city commission and any commissioner so appointed shall serve until their successors shall be elected and qualified. The city commission shall call a special election to fill the unexpired terms of office of the commissioners whose seats become vacant, and the election shall be held 60 days following the appointments by the governor. Each vacant seat shall be voted upon as provided under this Charter. The candidate in the said special election who receives the greatest number of votes shall be elected to serve the term of the commissioner who had the longest remaining term of office and the candidate receiving the second greatest number of votes shall be elected to serve the term of the commissioner who had the second longest remaining term of office, and the term of office of any other successful candidate shall be determined in like manner.

Sec. 10. Suspension and appointment of successor commissioners.

The power of suspension of commissioners shall remain with the governor of the state of Florida pursuant to the Constitution. The interim appointment of replacement commissioners shall be vested with the remaining commissioners. A commissioner may be suspended upon indictment by a grand jury or by having information filed against him by the state attorney charging him with a felony, or as otherwise provided in this Charter. When a commissioner is suspended the remaining commissioners shall have the power of appointment to replace the suspended commissioner. In the event that three or more commissioners are simultaneously subject to suspension under this Charter, they shall not be suspended unless or until a petition is filed by a citizen of the city with a court of competent jurisdiction and an order is duly entered finding probable cause for such suspension and after the court has appointed a successor for each commissioner so suspended until a special election is called and held pursuant to general law, which election shall be held within 60 days of the suspension.

(Ord. No. 88-07, § 1, 1-25-88)

Sec. 11. Salary.

The City Commission shall determine the mayor-commissioner's and the commissioners' salaries by ordinance, but no such ordinance shall take effect to change the salaries of the mayor-commissioner and commissioners until after the next election following adoption of such ordinance.

(Ord. No. 88-08, § 1, 1-25-88; Ord. No. 97-33, § 1, effec. 10-1-97; Ord. No. 2005-33, § 1 6-20-05, effec. 10-11-05; Ord. No. 2014-14, § 4, 5-5-14, effec. 9-15-14)

Sec. 12. Organizational meeting; other meetings.

After each general election, the newly elected city commissioners shall assume the duties of office at the organizational meeting of the city commission, which shall be held on the third Tuesday in November. All other regular meetings of the city commission shall be fixed by ordinance. However, there shall not be less than two regular meetings each month. Special meetings or workshops of the city commission may be called by any three commissioners at a public meeting or by the mayor-commissioner, and each commissioner shall be given at least six hours written notice of any special meeting or workshop, unless all the commissioners waive the time requirement at the special meeting or workshop. All official meetings of the city commission shall be open to the public and shall be held at the city hall or other place open to the public.

(Ord. No. 88-07, § 1, 1-25-88; Ord. No. 2005-34, § 1, 6-20-05, effec. 10-11-05)

Sec. 13. Powers of commission.

Except as otherwise provided in this Charter, all powers of the city and the determination of all matters of policy shall be vested in the city commission. Without limitation of the foregoing, the city commission shall have power to:

- (1) Be the judge of the election and qualifications of its own members.
- (2) Adopt a budget.
- (3) Authorize the issuance of bonds, revenue certificates and other evidence of indebtedness.
- (4) Appoint members of official boards and establish advisory groups or boards and appoint the members thereof.
- (5) Adopt and modify an official map of the city and provide for the names of streets, avenues and other public ways and provide for a system of house numbering.
- (6) Provide for an independent audit.
- (7) Enter into contracts with the state and federal governments and agencies relating to housing, public utilities and other municipal functions, and make expenditures for those purposes.
- (8) Pass ordinances and laws and impose penalties for the violation thereof, provided that the maximum penalty to be imposed shall not exceed that provided by general law.
- (9) Provide rules and regulations for all purchases and sales made for and on behalf of the city.
- (10) Appoint, remove and fix the compensation of the city manager, city attorney and city clerk and any other officers and employees appointed by the city commission.
- (11) Exercise the power of eminent domain.

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- (12) Exercise any right or authority given or permitted by the Constitution and the laws of the State of Florida to city commissions or to city councils not inconsistent with the provisions of this Charter.

(Ord. No. 88-07, § 1, 1-25-88)

Sec. 13.5. Operational structure of city; prohibition against city commission interference with operations of city.

There shall be created by ordinance such administrative offices/operational units as to provide for the public safety and to administer the various programs and services provided for by the City Commission. Neither the city commission nor any of its members shall dictate the appointment of any person to office or employment by the city manager or in any manner prevent the city manager from exercising his own judgment in selecting the personnel of his subordinates, and the members of the commission shall deal with the administrative service only through the city manager, and neither the commission, nor any member thereof, shall give orders to or make requests (other than requests for information) upon any of the subordinates of the city manager, either publicly or privately. Any such dictation, orders or requests or interference upon the part of a member of the city commission with the administration of the city shall be cause for his removal from office in accordance with this Charter or pursuant to state law.

(Ord. No. 2014-14, § 5, 5-5-14, effec. 9-15-14)

Sec. 14. Appointment of city manager.

The city commission shall appoint an officer of the city, who shall have the title of city manager, and he shall have the powers and perform the duties provided in this Charter and such other duties designated by the city commission. No city commissioner shall receive such appointment during the term for which he shall have been elected or appointed, nor within one year after the expiration of his term.

Sec. 15. Compensation.

The city manager shall receive a compensation for his services to be fixed by the city commission.

Sec. 16. Removal and suspension.

The city manager shall be removable by the city commission, but if removed at any time after having served six months, he may demand written charges and a public hearing upon the same by the city commission. Such charges shall be approved at a public meeting by majority vote of the commission. The public hearing shall take place seven days after the meeting at which said charges are approved. The city manager's final removal shall not take effect until such hearing has been had, but the commission may suspend him from office at any time and appoint an interim city manager pending the preparation of written charges or the public hearing thereon.

(Ord. No. 88-07, § 1, 1-25-88)

Sec. 17. Removal of city manager.

The city commission may remove the city manager by a minimum of three commissioners voting for removal.

(Ord. No. 88-07, § 1, 1-25-88)

Sec. 18. Creation of new departments or offices; change of duties.

The city commission by ordinance may create, change and abolish offices, departments or agencies, other than the offices, departments and agencies established by this Charter. The city commission may by ordinance assign additional functions or duties to the offices, departments or agencies established by this Charter, but may not discontinue or assign to any other office, department or agency any function or duty assigned by this Charter to a particular office, department or agency.

(Ord. No. 88-07, § 1, 1-25-88)

Sec. 19. City commission to be judge of qualifications of its members.

The city commission shall be the judge of the election and qualifications of its members, and for such purposes shall have power to subpoena witnesses and require the production of records.

Sec. 20. commission meeting procedures; journal of minutes.

The city commission shall determine its own rules and order of business. It shall require a journal of minutes of its proceedings to be kept and the journal of minutes shall be open to public inspection. The city clerk-auditor shall be custodian of the journal of minutes.

(Ord. No. 88-07, § 1, 1-25-88)

Sec. 21. Motions, ordinances and resolutions.

The city commission shall act only by motion, ordinance or resolution. All ordinances and resolutions adopted by the city commission, except appropriation measures, shall be confined to one subject, which shall be clearly stated in the title. However, no ordinance or resolution shall be held invalid because of defective title. All appropriation measures shall be confined to the subject of appropriations and finance. In addition to any acts of the city commission that are required by general law or by this Charter to be by ordinance, all acts of the city commission establishing a fine or other penalty shall be by ordinance.

(Ord. No. 88-07, § 1, 1-25-88)

Sec. 22. Enacting clause.

The enacting clause of all ordinances shall be, "Be It Ordained by the city commission of DeLand, Florida."

(Ord. No. 88-07, § 1, 1-25-88)

Sec. 23. Procedure for passage of ordinances; first reading; public hearing.

Every ordinance shall be introduced in writing and read by title. After such reading, all persons interested shall be given an opportunity to comment and be heard on the ordinance at a public hearing. After passage on first reading, every ordinance shall be advertised as provided by general law.

(Ord. No. 88-07, § 1, 1-25-88)

Sec. 24. Second reading; public hearing; further consideration; final passage.

At the commission meeting so advertised, or at any meeting to which such hearing shall from time to time be adjourned, such ordinance may be read by title only for the second time. After such reading, all persons interested shall be given an opportunity to comment and be heard on the ordinance at a public hearing. After such hearing, the commission may finally pass such ordinance with or without amendment. The second passage of any ordinance pursuant to this Charter shall be final and no further passage shall be required.

(Ord. No. 88-07, § 1, 1-25-88)

Sec. 25. Further consideration; final passage.

After public hearing, the city commission may finally pass an ordinance with or without amendment, except that if it makes an amendment which constitutes a substantive change, it shall not finally pass the ordinance until it has advertised the amended sections, together with a notice of the commission meeting when the amended ordinance will be further considered, as provided by general law. At the commission meeting so advertised, or at any commission meeting to which such meeting shall be adjourned, the amended ordinance may be read by title only and a public hearing thereon shall be held, and after such hearing the city commission may finally pass such amended ordinance, or again amend it subject to the same conditions. The second passage of any ordinance pursuant to this Charter shall be final and no further passage shall be required.

(Ord. No. 88-07, § 1, 1-25-88)

Sec. 26. Emergency ordinances.

The city commission may by unanimous vote of the commissioners present at any meeting of the city commission waive the time and notice requirements herein provided for the passage of ordinances, and may thereupon pass an ordinance following its first and second reading by title at the same meeting of the city commission at which the ordinance was introduced. However, any such ordinance passed at the same meeting at which it was introduced shall be captioned as an emergency ordinance and it shall be temporarily effective for a period of not more than 60 days from the date of its passage. If the emergency ordinance is not thereafter passed in the regular manner, as herein provided, and all time and notice requirements are not complied with, within the 60 days following its first passage as an emergency ordinance, the emergency ordinance shall expire at the end of the 60-day period. The city commission may pass an emergency ordinance whenever, in the opinion of the city commission, the public welfare will be best served by the passage of an emergency ordinance.

(Ord. No. 88-07, § 1, 1-25-88)

Sec. 27. Execution of ordinances.

Each ordinance enacted by the city commission shall be signed by the mayor-commissioner, shall be attested to by the city clerk-auditor or the designee of the city clerk-auditor, as designated by the city commission, and shall be approved by the city attorney as to form and legality. However, failure of the city attorney to approve an ordinance shall not affect its validity.

(Ord. No. 88-07, § 1, 1-25-88)

Sec. 28. Publication of ordinances after final passage.

The city commission may designate the methods of publication of each ordinance in the ordinance, and in the absence of such designation in the ordinance, the method of publication shall be by making a copy of such ordinance available in the city clerk's office for inspection by the public. The requirement of publication shall not postpone the effective date of such ordinances unless so provided in the ordinance.

Sec. 29. Effective date of ordinances.

Every ordinance shall become effective immediately upon its passage and approval by the city commission, unless the ordinance contains a provision fixing a different effective date. The requirements as to signature herein provided shall not affect the date on which the ordinance becomes effective.

(Ord. No. 88-07, § 1, 1-25-88)

Sec. 30. Majority vote of commissioners.

No ordinance or resolution shall be passed or adopted by the city commission unless at least three commissioners shall vote in favor thereof, and the ayes and nays of each vote shall be taken upon the passage of all ordinances and resolutions and shall be entered in the minutes of the proceedings of the city commission.

(Ord. No. 88-07, § 1, 1-25-88)

Sec. 31. Independent annual audit.

The commission shall designate a certified public accountant or a firm of certified public accountants who, as of the end of the fiscal year, shall make an independent audit of accounts and other evidences of financial transactions of the city government and shall submit a written report to the commission and to the city manager. Such accountants shall have no personal interest, direct or indirect, in the fiscal affairs of the city government or of any of its officers. They shall not maintain any accounts or records of the city business, but within specifications approved by the commission shall post-audit all books and documents kept by any office, department or agency of the city government.

(Ord. No. 88-07, § 1, 1-25-88; Ord. No. 2005-31, § 3, 6-20-05, effec. 10-11-05)

Sec. 32. Recall of city commissioners.

The recall of city commissioners shall be governed by general law.

(Ord. No. 88-07, § 1, 1-25-88)

ARTICLE III. THE CITY MANAGER

Sec. 33. Qualifications.

The city manager shall be chosen by the city commission solely on the basis of his or her executive and administrative qualifications, with special reference to his or her actual experience in, or his or her knowledge of, accepted practice in respect to the duties of his or her office as hereinafter set forth. At the time of his or her

appointment, he or she need not be a resident of the city or state, but within one year of appointment, he or she shall become a resident within the corporate limits of DeLand.

(Ord. No. 88-07, § 1, 1-25-88; Ord. No. 97-34, § 1, effec. 10-1-97; Ord. No. 2005-34, § 2, 6-20-05, effec. 10-11-05)

Sec. 34. Powers and duties.

The city manager shall be the chief administrative officer and head of the administrative branch of the city government, except as herein provided. He shall be responsible to the city commission for the proper administration of all affairs of the city, and to that end he shall have power and shall be required to:

- (1) Execute the laws and administer the government of the city.
- (2) Appoint upon the basis of ability and competence and may remove all officers and employees of the city for cause, except as otherwise provided by this Charter, and except as he may authorize the head of a department or office to appoint subordinates in such department or office.
- (3) Prepare the budget annually and submit it to the city commission, and be responsible for its administration after adoption.
- (4) Attend all meetings of the city commission and of its committees, with the right to take part in the discussion of matters affecting the city, but without having a vote.
- (5) Recommend to the city commission for adoption such measures as he may deem necessary or expedient in the interest of the city.
- (6) Be the purchasing agent for the city and as such make all purchases of supplies and shall approve all vouchers for payment of same, except the city manager may delegate this power pursuant to Section 62 of this Charter.
- (7) See that all terms and conditions imposed in favor of the city or its inhabitants in any public utility franchise are faithfully kept and performed and, upon knowledge of any violation thereof, it is mandatory that he shall report the same to the city attorney, whose duty it shall be without further authority to take such legal steps as he may deem necessary to enforce the same.
- (8) Prepare and submit to the city commission as of the end of the fiscal year a complete report on the finances and administrative activities of the city for the preceding year.
- (9) Keep the city commission advised of the financial condition and future needs of the city, and make such recommendations as may seem to him desirable.
- (10) Accept by all courts service of civil process on the city.
- (11) Perform such other duties as may be prescribed by this Charter or required of him by the city commission, not inconsistent herewith.

(Ord. No. 88-07, § 1, 1-25-88)

Sec. 35. Absence of the city manager.

To perform his duties during his temporary absence or disability, the city manager may designate by letter filed with the city clerk a qualified administrative officer or department head of the city. Such appointment may be for an interim period only, not to exceed 30 days unless otherwise approved by the city commission. In the event of the failure of the city manager to make such designation, the city commission may by resolution appoint an officer or department head of the city to perform the duties of the city manager until he shall return, or his disability shall cease.

(Ord. No. 88-07, § 1, 1-25-88)

Sec. 36. Reserved.

Editor's note(s)—Ord. No. 2014-14, § 6, adopted May 5, 2014, approved at referendum Aug. 26, 2014, and effective Sept. 15, 2014, repealed § 36, which pertained to creation of certain departments, offices, operational units, restrictions as to interference with administration of city and derived from Ord. No. 88-07, § 1, adopted Jan. 25, 1988; and Ord. No. 2005-30, § 3, adopted June 20, 2005, and effective Oct. 11, 2005.

Sec. 37. Directors of administrative offices/operational units.

At the head of each administrative office/operational unit placed under the city manager there may be an officer of the city who shall have supervision and control of the administrative office/operational unit subject to the city manager. Except as herein provided, two or more administrative offices/operational units may be headed by the same individual. The city manager may head one or more administrative offices/operational units.

(Ord. No. 88-07, § 1, 1-25-88; Ord. No. 2005-30, § 4, 6-20-05, effec. 10-11-05)

Sec. 38. Departmental divisions.

The work of each department shall be distributed among such divisions thereof as may be established by ordinance. Pending the passage of an ordinance or ordinances distributing the work of departments under the supervision and control of the city manager among specific divisions thereof, the city manager shall establish temporary divisions.

(Ord. No. 88-07, § 1, 1-25-88)

ARTICLE IV. ADMINISTRATIVE OFFICERS

Sec. 39. City clerk-auditor; duties.

There shall be a city clerk-auditor who shall be appointed by and serve at the pleasure of the city commissioners. The city clerk-auditor shall receive a salary to be fixed by the city commission.

The city clerk-auditor shall give notice of the meetings of the city commission, shall keep the minutes of its proceedings, shall be the custodian of the city seal, shall authenticate by signature and record and keep for that purpose all ordinances and resolutions passed by the city commission, and shall perform such other duties as may be assigned by the city commission. The city clerk-auditor shall also countersign all contracts made on behalf of the city. No contract made on behalf of the city or to which the city is a party shall be valid unless countersigned by the city clerk-auditor. The city clerk-auditor shall also have the power to administer oaths.

The city clerk-auditor shall perform internal auditing on the financial records of the city and is directly accountable to the city commission as the representative of the legislative branch of government.

The city clerk-auditor shall perform such other duties as may be assigned by the city commission.

(Sp. Acts, Ch. 72-522, Sec. 2; Ord. No. 88-07, § 1, 1-25-88; Ord. No. 2014-14, § 7, 5-5-14, effec. 9-15-14)

Sec. 40. City finance director; appointment, compensation, duties.

There shall be a city finance director who shall be appointed by and shall be under the direction and supervision of the city manager. The finance director shall receive a salary to be fixed by the city commission.

The finance director shall be responsible for the collection, receipt and accounting for all funds of any kind due to the city and shall be custodian of such funds. The finance director shall be responsible for keeping a separate account of each fund or appropriation and of the debits and credits pertaining thereto. The finance director shall be responsible for the preparation of receipts in duplicate for all monies received by the city, delivering one copy of the receipt to the person paying in the money and retaining the other for accounting purposes. All funds of the city shall be deposited by the finance director in such banks or depositories as may be directed from time to time by the city commission and may be withdrawn and disbursed from time to time in such manner as may be provided by resolution or approved motion of the city commission. All monies due as interest upon investments or deposits shall be collected under direction of the finance director and placed to the credit of the general fund of the city unless designated to some other city fund by the city commission. The finance director shall be responsible for the safekeeping of any and all bonds and securities taken for investments and deposits.

The finance director shall be responsible for the disbursement of any city funds. All disbursements except those from petty cash funds and those for certain bonds and interest bearing coupons will be made by check drawn on city bank, depository accounts, or electronic payment. All checks will be signed by the finance director and in the finance director's absence by the finance director's designee and countersigned by the city manager and in his absence by his designee. A receipt shall be obtained and properly filed for each disbursement of cash from the petty cash fund. Certain bonds and interest-bearing coupons which, when due, may as provided by ordinance or resolution be paid on presentation to a bank or depository holding funds of the city for payment of such items and in case the same are payable in some place other than the City of DeLand, then the money for their redemption shall be sent to the place of payment.

The finance director shall be responsible for keeping an accurate account of all assessments and taxes, of all monies due to, and of all receipts and disbursements by the municipality; of all its assets and liabilities and of all appropriations made by the city commission. The finance director shall submit to the city commission once each quarter a complete and comprehensive report covering the last preceding month of the receipts and expenditures and of the financial condition of the city. The finance director shall recommend such action from time to time to the city commission through the city manager as will insure the punctual payment of principal and interest of any and all bonds and all other obligations of the city. The finance director shall furnish the city manager at any time such reports, data, and information as may be necessary to fully inform the latter as to the financial affairs of the city, furnishing him such estimates of the expenses of the government as may be necessary to form the basis for the annual budget and to determine the revenue necessary to be raised each year.

The finance director shall prescribe and require except as there may be prescribed by law, the use of plain and uniform systems of books of accounts by all city departments, offices or employees who are charged with the receipt or disbursement of any of the funds of the city, or who may be authorized to purchase materials and supplies or to employ labor for the city. The finance director shall prescribe the forms or vouchers or other evidence of receipts of money from the city or the establishment of demands against the city, and may require reports from each department, office, officer or employee of the city receiving or disbursing funds of the city showing all sums received and disbursed, from what source, and for what purpose, making such records available to the city clerk-auditor for internal auditing, provided that at the close of each fiscal year the city commission shall have the books of the city audited by a certified public accountant.

The finance director in addition to his enumerated duties above shall perform such other duties as may be assigned to him from time to time by the city manager.

(Sp. Acts, Ch. 72-522, § 3; Ord. No. 88-07, § 1, 1-25-88; Ord. No. 2005-31, § 4, 6-20-05, effec. 10-11-05)

ARTICLE V. POLICE AND FIRE PROTECTION

Sec. 41. Police department.

There shall be a police department which shall consist of a chief of police and such officers as may be determined by the city commission, and the city commission shall create such lesser offices within the department as it may see fit. The chief of police shall be the head of the police department. He shall be appointed by the city manager. The chief of police shall be under the direction and supervision of the city manager. He and his officers shall receive a salary to be fixed by the city commission.

(Ord. No. 88-07, § 1, 1-25-88)

Sec. 42. Chief of police—Duties and authority.

It shall be the duty of the chief of police, or in his absence his designated representative, to attend meetings of the city commission as directed by the city commission; to aid in the enforcement of order and to enforce the city's ordinances; to execute all papers and processes of the city or its authorities; to attend in person or through his duly designated officer appropriate court during its sittings; to execute its commands and to aid in the enforcement of order therein and to perform such other duties as may be lawfully required of him. Subject to the authority and instruction of the city commission and under the supervision of the city manager, the chief of police shall have and exercise control over the police department.

(Ord. No. 88-07, § 1, 1-25-88)

Sec. 43. Same—Officers; police reserves.

The chief of police and his officers shall have the power and authority to arrest immediately, with or without warrant, and also to take into custody, any person who shall commit, threaten or attempt to commit, in his presence or within his view, or whom he has reasonable cause to believe has committed, threatened or attempted to commit, any offense prohibited by the ordinances and laws of the city or the criminal statutes of the state, and shall without unnecessary delay bring the offenders before the appropriate court to be dealt with according to law. The chief of police and his officers shall have the power and authority to make arrests anywhere within Volusia County for a violation of any city ordinance or any criminal statute which occurred within the corporate limits of the city, if the arresting officer is in fresh or hot pursuit of the alleged violator from inside the corporate limits of the city.

The chief of police and his officers shall have the same power and authority in those areas anywhere within Volusia County relative to the enforcement of any city ordinance or any criminal statute of the State of Florida provided the city has a proprietary interest in the property or in the event the city leases said property for a municipal purpose.

The chief of police and his officers shall have authority to maintain peace and good order anywhere within the corporate limits of the city, and anywhere on or over property outside the corporate limits of the city within Volusia County over which the city has a proprietary or leasehold interest. In the event it is necessary, the chief of police and his officers shall have authority to establish order where it does not exist.

The city may, by ordinance, create a police reserve or reserves. The chief of police shall have and exercise control over the police reserves.

(Ord. No. 88-07, § 1, 1-25-88)

Sec. 44. Fire department.

The city shall provide fire services which shall consist of a fire chief and such number of firemen as the city commission may determine. The fire chief shall be the head of the fire department. He shall be appointed by the city manager. The fire chief shall be under the direction and supervision of the city manager. He and the firemen shall receive a salary to be fixed by the city commission, and shall have authority to enforce all city ordinances relating to the prevention and extinguishment of fires and the protection of life and property within the limits of the city, and to execute all papers and process of the city or its authorities relating thereto, and to perform such other duties as may be lawfully required of them. Nothing in this section shall preclude the city from contracting for fire services with another governmental jurisdiction or independently created fire district.

(Ord. No. 88-07, § 1, 1-25-88)

ARTICLE VI. DEPARTMENT OF LAW

Secs. 45—50. Reserved.

Editor's note(s)—Ord. No. 88-07, § 2, adopted Jan. 25, 1988, provided for the repeal of §§ 45—50, which pertained to municipal court, municipal judges, disposition of moneys collected as fines, the city prosecutor, and the executive officer of municipal court. Such sections were derived unamended from Sp. Acts. Ch. 70-648.

Sec. 51. City attorney; assistant city attorney; appointment and qualifications.

The city commission shall appoint a city attorney who shall act as the legal advisor to, and attorney and counselor for, the city and all of its officers in matters relating to their official duties. He shall prosecute and defend for and in behalf of the city, all civil complaints, suits and controversies in which the city is a party. He shall furnish the city commission, the city manager and the head of any department, his opinion on any question of law relating to their respective powers and duties. In addition to the duties specifically imposed under this Charter, he shall perform such other professional duties as may be required of him by ordinance or resolution of the city commission, or as are prescribed for city attorneys under the general laws of the state, which are not inconsistent with this Charter. The city attorney shall be a lawyer admitted in and having authority to practice in all courts of the state. At such time as the city commission shall determine that his services are needed, the city commission may appoint an assistant city attorney, whose powers and duties shall be the same as the city attorney. The city commission may also preapprove a list of attorneys meeting the same qualifications as required for city attorney who may be specifically designated acting/assistant city attorney by the city attorney to fulfill the city attorney's duties when the city attorney is unavailable or needs assistance.

(Ord. No. 88-07, § 1, 1-25-88; Ord. No. 97-34, § 1, effec. 10-1-97)

ARTICLE VII. BUDGET

Sec. 52. Fiscal year.

The fiscal year of the city shall be from October 1 through September 30 unless changed by the city commission by ordinance.

(Ord. No. 88-07, § 1, 1-25-88)

Sec. 53. Preparation and submission of budget.

At least 60 days prior to the beginning of each budget year the city manager shall submit to the city commission a budget and an explanatory budget message in the form and with the contents provided herein. The budget message submitted by the city manager to the commission shall be explanatory of the budget, shall contain an outline of the proposed financial policies of the city and all capital programs and shall describe in connection therewith the important features of the budget plan. It shall set forth the reasons for salient changes from the previous year in costs and revenue items and shall explain the major changes in financial policy. The budget shall contain a complete financial plan for the budget year. It shall contain in tabular form:

- (1) Detailed estimates of all anticipated revenues applicable to proposed expenditures.
- (2) All proposed expenditures.

The total of anticipated revenues shall equal the total of proposed expenditures. Prior years' surpluses shall be included in revenue receipts. Surplus shall include revenue receipts made available by the lapsing of unencumbered appropriation balance at the beginning of the budget year; receipts from unanticipated miscellaneous revenues of the preceding fiscal year; receipts from anticipated miscellaneous revenues of the preceding fiscal year in excess of the estimates in the budget; and receipts during the previous fiscal year for taxes or liens against which a complete reserve has been established.

(Ord. No. 88-07, § 1, 1-25-88)

Sec. 54. Budget a public record.

The budget and budget message and all supportive schedules shall be a matter of public record open to public inspection by anyone at any reasonable hour in the office of the city clerk-auditor.

(Ord. No. 88-07, § 1, 1-25-88)

Sec. 55. Publication of notice and public hearing on budget.

The city commission shall advertise and hold a public hearing on the budget and proposed millage rate as provided by general law. At the time and place so advertised or at any time and place to which such public hearing shall from time to time be adjourned, the commission shall hold a public hearing on the budget as submitted, at which all interested persons shall be given an opportunity to be heard for or against the estimates of any item thereof. After the conclusion of such public hearing, the commission may insert new items or may increase or decrease the total proposed expenditures. It shall also increase the total anticipated revenue to at least equal such total proposed expenditures.

(Ord. No. 88-07, § 1, 1-25-88)

Sec. 56. Date of final adoption.

The budget shall be finally adopted annually not later than September 30th.

(Ord. No. 88-07, § 1, 1-25-88)

Sec. 57. Effective date of budget; certification; copies made available.

Upon the final adoption, the budget shall be in effect for the budget year. A copy of the budget, as finally adopted, shall be certified by the city manager and city clerk-auditor, and filed in the office of the city clerk-auditor. The budget so certified shall be reproduced and sufficient copies thereof shall be made available for the use of all offices, departments, and agencies of the city, and for the use of interested persons.

(Ord. No. 88-07, § 1, 1-25-88)

Sec. 58. Budget establishes appropriations.

Notwithstanding any other provisions of this Charter, the city manager shall have the authority to transfer funds during the fiscal year to another department budget within the same fund so long as the cumulative funds transferred out of any department budget during the fiscal year do not exceed five percent of that department's budget. Such transfers shall not require approval by the City Commission; however, at the end of the fiscal year the City manager [manager] shall report such transfers to the City Commission.

(Ord. No. 88-07, § 1, 1-25-88; Ord. No. 2005-31, § 5, 6-20-05, effec. 10-11-05)

Sec. 59. Budget establishes amounts to be raised by property tax; certification to taxing authority.

From the effective date of the budget, the amount stated therein as the amount to be raised by property tax shall constitute a determination of the levy for the purposes of the city, in the corresponding tax year.

(Ord. No. 88-07, § 1, 1-25-88)

Sec. 59.1. Pay plan.

The city commission shall establish a pay plan for all permanent employee positions of the city and shall review that pay plan not less often than every five years. A copy of the pay plan shall be filed with the city clerk-auditor and shall have the same effect as though it were a part of this Charter. The pay plan shall include rules for its installation and administration. There shall be established a schedule of annual salary ranges having a minimum and maximum rate. It shall be the duty of the city manager to administer the pay plan in accordance with its provisions.

(Ord. No. 88-07, § 1, 1-25-88; Ord. No. 2005-31, § 6, 6-20-05, effec. 10-11-05; Ord. No. 2014-14, § 8, 5-5-14, effec. 9-15-14)

ARTICLE VIII. FINANCE, GENERAL**Sec. 60. When contracts and expenditures prohibited.**

No officer, department or agency shall, during any budget year, expend or contract to expend any money or incur any liability, or enter into any contract which by its terms involves the expenditure of money, for any purpose, in excess of the amounts appropriated pursuant to this Charter, or that authorized for transfer by the City Manager pursuant to section 58 of this Charter, for any division of any department or agency, or in those cases where the department has no division then for that department, unless such expenditure is approved by the city

commission. Any contract, verbal or written, made in violation of this Charter shall be null and void. Any officer or employee who violates this section shall be guilty of a misdemeanor and, upon conviction thereof, shall cease to hold his office or employment. Nothing in this section shall prevent the making of contracts or spending of money for capital improvements to be financed in whole or in part by the issuance of bonds, nor the making of contracts of lease, for supplies, equipment or for services for a period exceeding the budget year in which such contract is made, when such contract is permitted by law.

(Sp. Acts, Ch. 72-521, Sec. 1; Ord. No. 88-07, § 1, 1-25-88; Ord. No. 2005-31, § 7, 6-20-05, effec. 10-11-05)

Sec. 61. Appropriations lapse at end of year.

All appropriations shall lapse at the end of the budget year to the extent that they shall not have been expended.

(Ord. No. 88-07, § 1, 1-25-88)

Sec. 62. Purchasing.

The City Manager or the City Manger's [Manager's] appointed purchasing agent(s) shall purchase supplies, materials, and equipment required by any office, department or agency of the city government in accordance with the rules and regulations established by ordinance or resolution.

(Ord. No. 88-07, § 1, 1-25-88; Ord. No. 2005-30, § 5, 6-20-05, effec. 10-11-05)

Sec. 63. Competitive bidding; exceptions.

Except as otherwise provided in this section, no contract shall be let by the city commission for any city improvement, nor shall any goods, supplies or materials be purchased by the city manager or his appointed purchasing agent for city purposes or use when the total amount to be paid therefore by the city shall exceed the threshold amount set by resolution annually at the time of the preparation of the budget, except by competitive bid. Notice of requests for competitive bids shall be advertised for two consecutive weeks. The first of these two notices shall appear not less than ten days prior to said bid opening. The advertisement shall be placed in a newspaper published or distributed in the city and shall request bids upon the work to be performed, or on the goods, supplies, or materials to be purchased by the city. All contracts shall be awarded to and all purchases shall be made from the lowest and best responsible bidder. However, the city commission shall have the power to reject all bids and to advertise again. This requirement for competitive bidding shall not apply to persons employed by the city or to professional service contracts for engineering services, architectural services, insurance services, auditing services or similar professional service contracts. These contracts may be negotiated by the city commission as shall be in the best interests of the city, unless otherwise regulated by general law. In addition, the city commission may by resolution purchase without benefit of bid equipment, materials or supplies by emergency appropriation when such purchase is determined to be necessary to protect the health, welfare or safety of the people. The city commission may also authorize by resolution the purchase of equipment, materials or supplies without competitive bidding when these are available only from a single source, or are unique or used items, or when no competitive bids are submitted in response to notices published in accordance with this section. Also excepted from the requirement of competitive bidding are purchases from other political bodies, including state and federal government, counties, municipalities, authorities, districts and school boards, and their agencies and divisions, and purchases from qualified vendors of products selected through competitive bidding procedures conducted by these other governmental bodies. This is intended to provide express authority for cooperative purchasing and bidding arrangements with the previously identified governments, authorities and their agencies. Any other provision of this Charter notwithstanding, the City of DeLand may provide for the purchase of any goods,

supplies or materials through an internet based competitive bidding process to include "reverse bidding" and may utilize for such purpose any vendor regularly engaged in providing such service. If such a service is used to procure bids, notice of the commencement of the competitive process shall be given for two consecutive weeks in a newspaper distributed within the City of DeLand, and the first of these notices shall appear not less than ten days prior to the commencement of the competitive bidding process. The notice shall contain such information as is sufficient to allow any prospective bidder to contact the vendor providing the reverse bidding or other electronic competitive bidding process.

(Sp. Acts. Ch. 72-521, § 2; Ord. No. 84-7, § 1, 3-19-84; Ord. No. 88-07, § 1, 1-25-88; Ord. No. 2007-47, § 1, 11-19-07, effec. 1-29-08; Ord. No. 2014-14, § 9, 5-5-14, effec. 9-15-14)

Sec. 64. Temporary borrowing.

When deemed necessary, the city commission may by ordinance authorize the issuance of certificates of indebtedness or notes in anticipation of the collection of taxes or of special assessments, provided that the amount of such obligations, except as to special assessments, shall at no time exceed one-half (0.5) percent of the assessed value of taxable property in the city, according to the last assessment roll preceding the loan. These obligations shall be first liens upon the proceeds of such taxes or assessments, and shall mature within 120 days after such taxes or assessments are collectible. In addition, the city commission shall have the authority to borrow funds from recognized banking institutions for periods up to five years. This borrowing power shall be limited to capital expenditures for equipment or programs which can reasonably be amortized over a short period of time. Such short term notes may be secured by a collateral mortgage on the equipment purchased. The amount of these obligations shall at no time exceed one-half (0.5) percent of the assessed value of taxable property in the city according to the last assessment roll preceding the loan. It is the intent and purpose of this provision to limit the total collective short term obligations of said city to one percent of the assessed value of taxable property in the city. This limitation shall have no effect on general obligation bonds, revenue bonds, or excise tax bonds, which shall be approved in a manner and amount provided by law.

(Ord. No. 88-07, § 1, 1-25-88)

ARTICLE IX. ELECTIONS

Sec. 65. Elections.

The city commission shall by ordinance provide and make all regulations, not inconsistent with this Charter or general law, which it considers needed or desirable for the conduct of municipal elections, and for the prevention of fraud therein. Inspectors and clerks of elections shall be appointed by the city clerk-auditor.

(Ord. No. 88-07, § 1, 1-25-88)

Sec. 66. Qualification of electors.

Any person qualified to be an elector of the State of Florida, and the County of Volusia, and who has been registered in the city as provided by law on the date of election, shall be an elector of this city.

(Ord. No. 88-07, § 1, 1-25-88)

Sec. 67. Qualifying of candidates for office of city commissioners.

Any elector of the city, having the qualifications herein provided for city commissioner and desiring to be a candidate for election as a city commissioner or mayor-commissioner shall file with the city clerk a signed qualifying statement under oath in substantially the following form:

I do solemnly swear that I am a candidate for Seat No. ____; on the city commission of the City of DeLand in the election to be held on ____; and I agree to serve if I am elected. I am a qualified elector in the City of DeLand, Florida, and I have or will have resided within the present corporate limits of the City of DeLand for at least six months immediately preceding the date of the end of the qualifying period.

The city clerk shall have qualifying forms available for completion by any candidate who may request such a form. Such qualifying forms and such qualifying fees as may be required by law shall be filed by the candidates at the time and on the dates established by the Florida Election Code of each even-numbered year, unless otherwise set by adoption of a resolution by the City Commission.

(Ord. No. 88-07, § 1, 1-25-88; Ord. No. 97-37, § 1, 9-3-97; Ord. No. 99-14, § 1, 5-17-99; Ord. No. 2005-29, § 1, 6-20-05, effec. 10-11-05; Ord. No. 2008-34, § 1, 8-18-08; Ord. No. 2014-14, § 10, 5-5-14, effec. 9-15-14)

Editor's note(s)—Ord. No. 2008-34, § 1, adopted Aug. 18, 2008 was approved by voters at a Referendum held on Nov. 4, 2008.

Sec. 68. Candidacy for city office by city employees.

No person in the employ of the city shall publicly or privately hold himself out as a candidate in any city election. Any person violating this section shall be immediately separated from city employment.

(Ord. No. 88-07, § 1, 1-25-88)

Sec. 69. Elections.

A regular election of candidates for the office of city commissioner shall be held in even-numbered years on the date established by the Florida Election Code for the primary election. The election for mayor-commissioner and four commissioners shall be at large by seats and for terms as prescribed by this Charter. All municipal elections shall be nonpartisan. A majority of the votes cast shall be required for election. In the event no candidate for any seat shall receive a majority of the votes cast, a runoff election shall be held in even-numbered years on the date established by the Florida Election Code for the general election, and only the names of the two candidates receiving the largest number of votes for any seat shall be printed on the ballot for such runoff election.

(Ord. No. 88-07, § 1, 1-25-88; Ord. No. 97-37, § 2, 9-3-97; Ord. No. 2005-29, § 2, 6-20-05, effec. 10-11-05; Ord. No. 2008-34, § 1, 8-18-08)

Editor's note(s)—Ord. No. 2008-34, § 1, adopted Aug. 18, 2008 was approved by voters at a Referendum held on Nov. 4, 2008.

Sec. 70. Write-in candidates.

Write-in candidates and candidacies shall be governed by general law.

(Ord. No. 88-07, § 1, 1-25-88)

Sec. 71. Election officer.

The city clerk-auditor shall be the election officer of the city and shall perform all ministerial duties of the election which are not performed by the supervisor of elections of Volusia County, Florida.

(Ord. No. 88-07, § 1, 1-25-88)

Sec. 72. Elections governed by state law.

All elections in the city shall be conducted as provided by general law.

Sec. 73. Hours of elections; canvass of returns.

The polls shall open and close as provided by state law for general elections. On the day of the election, the canvassing board, comprised of the City Clerk-Auditor, the chief of police, and one member of the city commission not on the ballot and appointed by vote of the city commission, shall canvass the returns and count the absentee ballots in the office of the Supervisor of Elections. The election returns shall be certified by resolution at the organizational meeting of the city commission.

(Ord. No. 88-07, § 1, 1-25-88; Ord. No. 97-37, § 3, 9-3-97; Ord. No. 2005-32, § 1, 6-20-05, effec. 10-11-05)

ARTICLE X. FRANCHISES

Sec. 74. Granting of franchises.

The city commission may by ordinance grant permission to any individual, company or corporation to construct and operate a public utility company or utility type service in the city.

(Ord. No. 87-21, § 1, 5-4-87; Ord. No. 88-07, § 1, 1-25-88)

ARTICLE XI. TAX ADMINISTRATION

Sec. 75. Property subject to tax.

All property within the city not expressly exempt by law shall be subject to taxation for municipal purposes.

(Ord. No. 88-07, § 1, 1-25-88)

Sec. 76. Method of assessment and collection.

All taxes levied and assessed by the city shall be assessed and collected with the general ad valorem taxes of Volusia County, Florida, in the manner prescribed by general law. The tax assessor of Volusia County, Florida, shall be ex officio tax assessor of the city and shall assess all real and personal property located within the corporate limits of the city upon the same valuations and according to the same principles controlling the valuation and assessment of such property for county taxes.

The tax assessor shall make up and complete the tax assessment rolls for each year extending on the same as to each item the taxes levied and assessed by the city computed by the aggregate millage certified to the tax

assessor. The tax assessment roll shall be completed and certified in the manner prescribed by statute and delivered to the tax collector of Volusia County, Florida, with warrant for the collection of same. The tax collector of Volusia County, Florida, shall be ex officio tax collector of the city of DeLand and shall collect all taxes levied and assessed upon the property located within the city and issue receipts therefor in the manner prescribed by law and make return and remittance of moneys collected by him as tax collector of the city to the city in the manner provided by law.

(Ord. No. 88-07, § 1, 1-25-88)

Sec. 77. Application of general law.

All taxes levied and assessed by the city shall be levied, assessed, equalized, collected and enforced and shall be due and payable at the same time, subject to the same discounts and bear the same rate of interest, penalties and fees and shall become delinquent at the time and in the same manner and be subject to the same rights and privileges of purchase, assignment and redemption and the same methods of enforcement by the same officers as is or may hereafter be provided by law for the levy, assessment, collection and enforcement of taxes for county purposes in Volusia County, Florida, and the city shall pay to the county tax assessor and county tax collector such fees, commissions or other compensation as may be provided by law for the assessment and collection of such municipal taxes.

(Ord. No. 88-07, § 1, 1-25-88)

ARTICLE XII. PLANNING AND ZONING

Sec. 78. Planning board; establishment and composition; officers.

The city commission shall appoint a city planning board consisting of seven members. None of the appointed members of the board shall hold any other public office or position in the government of the city, and all members shall be residents of the city. The board shall be known as the DeLand Planning Board. The board shall elect a chairman and secretary and such other officers as it may determine from its own members, and those officers shall serve for a term of one year or until their successors have been elected and qualified.

(Ord. No. 88-07, § 1, 1-25-88; Ord. No. 2005-34, § 3, 6-20-05, effec. 10-11-05)

Sec. 79. Terms of office; vacancies; removal.

Each appointed member of the planning board shall serve a term of four years or until his successor has been appointed. Insofar as possible an equal number of the terms of the members of the board will expire in each of four year periods. Any vacancy occurring on the board shall be filled for the remainder of the term of office of the member whose resignation, death or removal created the vacancy within 30 days after the vacancy occurs. The seat of any board member who accumulates three or more unexcused absences from regularly scheduled meetings during any calendar year shall be deemed vacant, and a replacement appointed to serve the remainder of the term. All excused absences shall be reflected in the minutes of the board. Any member of the board may be removed from office by a majority of the city commission.

(Ord. No. 88-07, § 1, 1-25-88)

Sec. 80. Powers and duties.

The DeLand Planning Board shall have such powers and shall be required to perform such functions and duties as may be required of it by ordinance adopted by the City Commission. The DeLand Planning Board shall be advisory only to the City Commission when the DeLand Planning Board considers matter of planning, zoning and platting of land. The DeLand Planning Board shall also hear and decide requests for variances from the Land Development Regulations of the City of DeLand in accordance with the codes and ordinances of the City of DeLand. In deciding upon requests for variances, the decision of the DeLand Planning Board shall be final and appealed to the Circuit Court as provided for elsewhere in this Charter.

(Ord. No. 88-07, § 1, 1-25-88; Ord. No. 2007-46, § 1, 11-19-07, effec. 1-29-08)

Sec. 81. Adoption of zoning ordinances.

For the purpose of promoting the health, safety, morals and general welfare of the inhabitants of the city, the city commission shall by ordinance regulate the location, height, bulk and size of buildings and other structures, the size of yards, courts and other open spaces, the density of population and the use of buildings and structures, and may divide the city into districts of such number, shape, permitted use and area as may be deemed best suited to carry out the purpose of this Charter. Also, within such districts it may regulate and restrict the erection, construction, reconstruction, alteration, repair or use of buildings, structures or land. All such regulations shall be uniform for each class or kind of building throughout each district, but the regulations in one district may differ from those in another district. Such ordinance may also provide for the manner in which zoning regulations and restrictions, and the boundaries of zoned districts, shall be determined, established and enforced, and amended, supplemented, changed or repealed; however, no such regulations, restrictions or boundaries, amendments or changes thereof shall become effective until after a public hearing at which parties in interest and residents of the city have an opportunity to be heard.

Sec. 82. Comprehensive city plan.

The city commission may adopt a comprehensive city plan for the physical development of the city, with accompanying maps, plats, charts, and descriptive and explanatory matter, and providing recommendations for the development of lands located within the city, as provided by general law.

(Ord. No. 88-07, § 1, 1-25-88)

Sec. 83. Appeal to courts from variance decisions of deland planning board.

Any person aggrieved by any decision of the DeLand Planning Board regarding a request for a variance, or any officer, department or board of the City of DeLand, may appeal any decision of the DeLand Planning Board regarding a request for a variance. The appeal shall be taken by filing a petition for writ of certiorari with a court of competent jurisdiction within 30 days after the decision of the DeLand Planning Board regarding a request for a variance has been rendered.

(Ord. No. 2007-46, § 2, 11-19-07, effec. 1-29-08)

Sec. 84. Zoning of lands annexed to city.

Any lands annexed to the city by this Charter, any amendment to this Charter, or any annexation ordinance shall be zoned in accordance with the county zoning regulations pending the zoning of the lands by the city.

(Ord. No. 88-07, § 1, 1-25-88)

Secs. 85—88. Reserved.

Editor's note(s)—Ord. No. 2007-46, §§ 3—6, adopted Nov. 19, 2007 and effective Jan. 29, 2008 repealed §§ 85—88, which pertained to board of adjustments proceedings; appeals; stay of proceedings, board of adjustment; powers, decision of board of adjustment, and appeal to courts from decisions of board of adjustments and derived from Ord. Nos. 88-07, § 1, 1-25-88 and 2005-34, §§ 4, 5, 6-20-04, effec. 10-11-05.

Sec. 89. Authorities may prevent violation of Charter or ordinance.

In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure or land is used in violation of this Charter or of any ordinance or other regulation made under authority conferred by this Charter or general law, the proper local authorities of the city, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, to restrain, correct or abate such violation, or to prevent the occupancy of said building, structure or land, or to prevent any illegal act, conduct, business or use in or about such premises.

(Ord. No. 88-07, § 1, 1-25-88)

Sec. 90. Platting and subdivision regulations.

In order to promote the health, safety, morals and general welfare of the inhabitants of the city, the city commission shall regulate by ordinance the platting and subdivision of land located within the city, and may require that the streets in any proposed subdivision, including streets bordering the subdivision, shall be of such widths and grades, and in such locations that they will accommodate prospective traffic, serve the subdivision adequately, afford adequate light and air, facilitate fire protection and provide access of firefighting equipment to buildings, and that such streets be coordinated so as to compose a convenient street system; that adequate easements of rights-of-way be provided for drainage and utilities; that the layout of the subdivision substantially conform to the comprehensive city plan for the area and to measures adopted in furtherance thereof; that such parks, playgrounds, school sites or other areas as may be designated for public use be of suitable size and location for their designated uses; and that sufficient and suitable monuments be placed to enable the survey of the subdivision or any part thereof to be retraced.

The regulations may further provide that the city commission shall not be required to approve any subdivision plat unless it finds that the subdivision can be adequately and economically served by the city with such normal public facilities and services as are suitable in the circumstances of the particular case, and that the land included within the subdivision is suitable or shall be made suitable for the various purposes for which it is intended to be used, and, in particular, unless all land intended as building sites can be used safely for building purposes without danger from flood or other inundation or from any other menace to health, safety or public welfare.

Such regulations may also include requirements of the extent to which and the manner in which streets shall be graded and improved, and the extent to which water, sewer and other utility mains, piping, connections or other facilities shall be installed as a condition precedent to final approval of the plat.

The regulations may also provide for the tentative approval of the plat previous to such improvements and installations but any such tentative approval shall not be entered on the plat. If completion of any improvements is required as a condition precedent to final approval of the plat, such regulations may provide that in lieu of the completion of such work and installation previous to the final approval of a subdivision plat, the city commission

may accept a bond in form and amount and with conditions and a surety satisfactory to it, providing for, and securing to the city, the actual construction and installation of such improvements and utilities within a period recommended by the city commission and expressed in the bond, and the city commission is hereby granted the power to enforce such bonds by appropriate legal and equitable remedies. Such regulations may also provide, in lieu of the completion of such work previous to the final approval of the plat, for an assessment or other method whereby the city commission or its agent is put in an assured position to do the work and make the installations at the expense of the subdivider.

(Ord. No. 88-07, § 1, 1-25-88)

Sec. 91. Recording of plats.

The county clerk or other public recording officer shall not receive or record any plat of lands within the city unless the plat has been approved by the city commission and its approval has been entered in writing on the plat, signed by the mayor-commissioner and attested by the city clerk.

(Ord. No. 88-07, § 1, 1-25-88)

Sec. 92. Preparation of plats.

All plats submitted for approval shall be drawn in compliance with the requirements and provisions of general law.

(Ord. No. 88-07, § 1, 1-25-88)

Sec. 93. Dedication and abandonment of streets.

No streets, boulevards, avenues, alleys or other public thoroughfares hereafter dedicated to public use by the owner shall be deemed a public street, boulevard, avenue, alley or thoroughfare for purposes of maintenance, care or improvement, or public liability, by the city, unless the dedication thereof be accepted and confirmed by ordinance, passed for such purpose, or unless the provisions of this Charter relating to platting and subdivisions shall have been complied with by the owner.

The city commission may by ordinance discontinue, vacate and abandon any plat, public park, public square, street, avenue, highway or any other way which is laid out, fixed or established in any manner by the city or any person; however, this power shall not apply to any designated state road without the concurrence of the state road department.

(Ord. No. 88-07, § 1, 1-25-88)

ARTICLE XIII. BONDS

Sec. 94. Authorization for issuance.

- (1) *Bonds payable from ad valorem taxes.* The city is authorized and empowered to issue negotiable bonds of the city to finance the opening, constructing, extending, repairing, reconstructing or improving of streets, alleys, lanes, roads, sidewalks, curbs, gutters, storm sewers and sanitary sewers; the establishing, constructing and improving of parks, playgrounds, public buildings and sites therefor, piers, docks, marinas, bridges, causeways, and the reclaiming, filling or other improvement of low, wet and overflowed lands and the waterfront within the city limits; to finance the establishing, purchasing, constructing, extending or

improving of the city's sanitary sewer system, waterworks, electric light plants, gas plants, transportation systems, airports, parking lots, parking facilities and street-light systems; or to finance any other municipal purpose the city is authorized to engage in under this Charter or under general law.

The city is hereby authorized to provide for the issuance of negotiable bonds of the city, under the seal of the city, for any of the purposes aforesaid which shall be payable from taxation and for the payment of which the full faith and credit of the city is pledged in an amount not to exceed 20 percent of the total nonexempt assessed valuation as assessed by the city or the county on behalf of the city of all taxable property, both real and personal, within the limits of the city. In computing this limitation all bonds for which the full faith and credit of the city is not pledged shall be excluded.

- (2) *Improvement bonds.* The city is authorized and empowered to issue municipal improvement bonds payable only from assessments for municipal improvements, and for which the full faith and credit and the taxing power of the city shall not be pledged.
- (3) *Revenue bonds.* The city is authorized and empowered to issue revenue bonds for the purpose of constructing, extending, enlarging or improving the sewer system of the city, the parking system of the city, including both on-street and off-street parking facilities, the city water system, other public utilities or plants or distribution systems, industrial parks, airports, trailer parks, recreation facilities and other revenue producing enterprises, or for providing public services, or for any similar purpose, which are payable from the revenues of public utilities or plants, or distribution systems or public services owned or operated by the city. However, such revenue bonds may be issued with the further provision that the principal and interest of the indebtedness shall be payable from such annual levy of taxes as may be necessary to meet any deficit, after applying any net revenues or income derived from the operation of any public utilities plants, distribution systems or public services of the city which are pledged to pay the principal and interest, in which event such bonds shall be included in computing the limitation of the bonded debt of the city fixed by this Charter, and shall be subject to referendum of the voters as hereinafter provided.
- (4) *Excise tax bonds.* The city is authorized and empowered to issue excise tax bonds payable from the proceeds of utility service taxes, cigarette taxes, franchise taxes, occupational license taxes, alcoholic beverage license taxes, or any other excise taxes or other funds except moneys from ad valorem taxes, to finance or refinance the cost or part of the cost of the acquisition or construction of any properties, work, betterments or improvements which the city is authorized to acquire or construct.
- (5) *General obligation bonds.* The city is authorized and empowered to issue negotiable bonds to finance or refinance the cost of acquiring or constructing any properties, including improved or unimproved real property, works, betterments or improvements which the city is authorized to acquire or to construct and said bonds may be general obligation bonds, for the payment of which the full faith and credit of the city is pledged, revenue bonds or excise tax bonds, which bonds may be issued and payable as authorized by law.

(Ord. No. 88-07, § 1, 1-25-88)

Sec. 95. Bond elections.

No bonds pledging or obligating the general taxing power or the full faith and credit of the city for payment shall be issued unless the bonds have been approved by a majority of votes cast in an election of qualified voters, to be held in the manner provided by general law.

Any municipal improvement bonds payable solely from special assessments, excise taxes or utility revenues, revenue bonds or excise tax bonds may be issued in the manner provided by this Charter or by general law for that purpose, and no election shall be required for the issuance of these bonds unless an election is required by general law.

(Ord. No. 88-07, § 1, 1-25-88)

Sec. 96. Sale of bonds.

Any bonds, including municipal improvement bonds, excise tax bonds and revenue bonds, issued by the city under the provisions of this Charter or under general law may be sold by the city at public sale after such advertisement as the city commission shall deem advisable, or at private sale without advertisement, at such prices as the city commission shall deem advisable, but not in any event less than 95 percent of the par value thereof, together with accrued interest thereon.

(Ord. No. 88-07, § 1, 1-25-88)

Sec. 97. Negotiability of bonds.

Any bonds, including municipal improvement bonds, excise tax bonds and revenue bonds, issued by the city under the provisions of this Charter or under general law shall be, constitute and have all of the qualities and incidents of negotiable instruments under the law merchant and general law, shall be incontestable in the hands of bona fide purchasers or holders for value and shall not be invalid because of any irregularity or defect in the proceedings for the issue and sale thereof. All such bonds shall be and constitute securities eligible for deposit for the securing of state, municipal and other public funds, and shall also be and constitute securities eligible for investment by banks, savings banks, executors, administrators, guardians and other fiduciaries and all state, municipal and other public funds.

(Ord. No. 88-07, § 1, 1-25-88)

Sec. 98. Revenue bonds; pledge of revenues.

The city commission, in authorizing the issuance of revenue bonds, may pledge all or any part of the revenues derived from any of the city's revenue producing systems, undertakings or enterprises, or any combination thereof, and may make valid and legally binding covenants with the holders of said revenue bonds of indebtedness. If the city commission shall determine to issue bonds or certificates of indebtedness for more than one different purpose, the approval of the issuance of bonds for each and all such purposes may be submitted to qualified voters on one ballot, and the ballot to be used shall be such as shall give to qualified voters an opportunity to vote for or against the issuance of bonds or certificates for each of the purposes. The failure of qualified voters to approve the issuance of bonds or certificates for any purpose shall not defeat the approval of bonds or certificates for any purpose which is approved by qualified voters.

Sec. 99. Execution of bonds; conditions.

All bonds, including municipal improvement bonds, excise tax bonds, revenue bonds or other obligations or certificates of indebtedness for the payment of money, shall be signed in the name of the city by the mayor-commissioner or any other officer designated for that purpose in the resolution authorizing the issuance of the same, shall be attested by the city clerk, and shall be under the seal of the city. All of the bonds and certificates of indebtedness may bear interest coupons to be signed with the facsimile signature of the city clerk. All of the obligations shall be of such denominations as shall be determined by the city commission, and shall bear interest at a rate fixed by the city commission not exceeding 15 percent per annum or any higher rate authorized by general or special act, payable either annually or semiannually, and to be due not more than 40 years from the date of issuance.

Prior to the issuance of any such bonds or certificates of indebtedness, the city commission shall by resolution authorize the issuance of the same, fixing the aggregate amount of the proposed issue, the denominations, the rate of interest, the purpose for which the moneys derived therefrom shall be expended, the

maturity of the same, either in serial term or all to mature at a fixed date, and shall provide for and shall create a sinking fund to pay the principal and interest of the bonds or certificates. The city commission shall also by ordinance fix the fees or charges to establish and maintain the services and facilities of such systems, undertakings or enterprises. These fees or charges shall be fixed, established and maintained at such rate or rates as shall be sufficient to pay all of the costs of operation and maintenance of such systems, undertakings or enterprises, the principal of and interest on such revenue bonds, and any reserve funds or other funds including reasonable margins, which may be provided for in the proceedings authorizing such revenue bonds. The city commission may also in such proceedings provide for a trustee or trustees of the proceeds of the sale of such revenue bonds or such revenues, and enter into trust agreements or other forms of agreements which it shall deem necessary and advisable and may include in such proceedings, trust agreements or other agreements, such other covenants, agreements and contracts which it shall deem advisable, all of which covenants, agreements and contracts shall be valid and legally binding obligations of the city in accordance with the terms thereof.

(Ord. No. 88-07, § 1, 1-25-88)

Sec. 100. Revenue bonds; pledge of utilities service taxes and excise taxes.

The city also shall have power to pledge as additional security for any revenue bonds any one or more of the utilities services taxes or cigarette taxes levied and collected pursuant to general law, franchise taxes collected by the city for any public utilities, or any other excise taxes or other funds which the city may have available to pledge to the payment of the principal of or interest on such revenue bonds, except moneys derived from ad valorem taxes. The city shall also have power to pledge as additional security for any revenue bonds the full faith and credit of the city and the levy of ad valorem taxes without limit as to rate or amount on all taxable property therein for the principal of and interest on such revenue bonds to the full extent that the pledged revenues from such systems, undertakings or enterprises are insufficient therefor, but no such revenue bonds for which the full faith and credit of said city and ad valorem taxing power shall be pledged shall be issued until the issuance thereof shall have been approved in a referendum by qualified voters in the manner provided by general law.

Notwithstanding any other laws to the contrary, general or special, the city is authorized and shall have power to pledge the proceeds of cigarette taxes levied and collected in the city pursuant to general law for the payment of bonds, certificates or other obligations issued to finance the cost of recreational facilities in the city which the city commission deems necessary or advisable for the use of the inhabitants of the city.

(Ord. No. 88-07, § 1, 1-25-88)

Sec. 101. Revenue bonds and excise tax bonds; additional authority.

The authority granted to the city in this Charter to issue revenue bonds and excise tax bonds shall be deemed to be supplemental, alternative and complete authority for the issuance of such revenue bonds and excise tax bonds, and such authority shall not be deemed to affect or take away the right of said city to issue such revenue bonds or excise tax bonds under general law.

(Ord. No. 88-07, § 1, 1-25-88)

Sec. 102. Municipal improvement bonds; payable from special assessments.

The city shall have power to issue municipal improvement bonds to be payable solely from the proceeds of special assessments actually made, levied and collected pursuant to the provisions of this Charter or general law to finance the cost of any local improvement for which special assessments may be levied and collected pursuant to the provisions of this Charter or general law.

(Ord. No. 88-07, § 1, 1-25-88)

Sec. 103. Creation of bond fund for municipal improvement bonds.

The city commission, authorizing the issuance of municipal improvement bonds, shall create a bond fund into which shall be deposited all the proceeds of special assessments, including interest and penalties thereon, levied and collected for municipal improvements financed by the proceeds of the municipal improvement bonds so authorized, and the bond fund created shall be pledged to the payment of the principal of and interest on the municipal improvement bonds authorized.

(Ord. No. 88-07, § 1, 1-25-88)

Sec. 104. Municipal improvement bonds; limitation of liens and obligations; trust agreements.

Any municipal improvement bonds shall not constitute an indebtedness of the city nor shall the obligation evidenced thereby constitute a lien on any lands or real estate in the city, but shall constitute a lien only on said bond fund. The city commission in the proceedings authorizing such municipal improvement bonds may provide for a trustee or trustees of the proceeds of such bond fund, and enter into trust agreements or other agreements which it shall deem necessary and advisable and may include in such proceedings, trust agreements or other agreements, such other covenants, agreements and contracts which it shall deem advisable, including a covenant that the city will diligently enforce the collection of such special assessments, and all of which covenants, agreements and contracts shall be valid and legally binding obligations of the city in accordance with the terms thereof.

(Ord. No. 88-07, § 1, 1-25-88)

Sec. 105. Bonds; miscellaneous provisions.

When any general obligation bonds pledging the full faith and credit of the city for payment are issued and sold, the entire taxable property within the city shall be pledged by the resolution providing for the issuance of said bonds, and the city commission shall levy annually such special tax on the taxable property within the city as may be necessary to pay the interest on the bonds and to provide a sinking fund for the payment of the bonds.

All reference in this article to municipal improvement bonds shall also include, refer and apply to municipal improvements certificates, and all references in this article to revenue bonds shall also include, refer and apply to revenue certificates.

(Ord. No. 88-07, § 1, 1-25-88)

ARTICLE XIV. SPECIAL ASSESSMENTS FOR MUNICIPAL IMPROVEMENTS

Sec. 106. Authorization by city commission to be by resolution; objections by property owners.

If the city commission decides to open, grade, pave, hard-surface, improve, reconstruct or repair any street, avenue, lane or alley, or to construct or repair any sidewalks in the public rights-of-way, or to construct or repair any curbs, gutters, drains, sewers, sanitary sewers, water mains or other street improvement within the city, and

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to pay any of the cost of those improvements by special assessments, the city commission shall adopt a resolution stating in a general way the work to be done and the limits within the work shall be done, the materials to be used and the width of paving or sidewalks, if the proposed work is to be the construction, alteration, repair or reconstruction of paving or sidewalks.

In the resolution the city commission shall designate the general location of the improvement, and provide for the payment of part or all the expense of municipal improvements by special assessments against the abutting or adjacent property, or property specially benefited. In making the special assessments, the cost of such improvements at street intersections shall be assessed against all specially benefited properties, and not solely those abutting the intersection. In the resolution the city commission shall specify the lands upon which the special assessment shall be levied and whether the assessment shall be determined and prorated according to the footage basis, or such other method as the city commission may prescribe. The lands shall be sufficiently described in said resolution as: "All lots and lands adjoining and contiguous, or bounding and abutting upon, _____ Street," upon which the improvements are to be made.

The city commission shall cause the resolution to be published one time in a newspaper of general circulation in the city.

Any person who is an owner of any land adjoining or contiguous, or bounding and abutting upon the proposed improvement, or whose land is subject to the assessment by reason of it being specially benefited, may present to the city commission his objections in writing to the improvement within ten days after publication of the resolution. If objection be made, the city commission shall pass upon the merits of the objection. The objector shall be given opportunity at a public hearing to present any evidence, facts or arguments in support of his objection. Notice of the public hearing shall be published at least one time in a newspaper of general circulation in the city, and a copy thereof mailed to each objector.

If no objection is filed, or if the objection shall be overruled, the city commission shall cause the proposed work to be done either by contract, or by the city directly with its employees, the city purchasing the materials and employing the labor to perform the work. The city commission may pay the expense of the work out of funds in the city treasury not otherwise specifically appropriated to other purposes, or it may provide for payment by municipal improvement certificates of lien or by municipal improvement bonds as hereafter provided.

(Ord. No. 88-07, § 1, 1-25-88)

Sec. 107. Assessment of expenses of improvements to be by resolution; objections by property owners.

The city commission may assess the expense of such work on the property benefited by the improvements, or upon the property adjoining and contiguous or abutting upon such improvements, in proportion to the frontage, or according to the benefits, as determined by the commission.

After the completion of the work and the determination of the cost, the city commission shall adopt a resolution assessing the expense thereof against the property benefited, and thereupon the city commission shall cause to be published a notice of the completion of the work, which notice shall contain a statement of the total expense of the work and the amount assessed against such lot, parcel or tract. The name of the owner or other person interested in the lands need not appear in the notice, but it must contain a description of the lot, parcel or tract of land sufficient to make it capable of identification. The notice shall fix a time, not less than 15 days from the first publication or posting of said notice, when the city commission will hear objections of the owner or other persons interested, to the amount of the assessment. The notice shall be published once each week for two weeks in a newspaper of general circulation in the city.

Any owner or person interested in any land against which such assessment is made may appear before the city commission at the time named in the notice and present any objection which he may have to the assessment.

However, such objection shall go only to the amount and apportionment of the assessment and shall not go to the necessity or the wisdom of the public improvement, which is concluded by the first notice hereinabove provided for. The city commission shall hear the objection on its merits and shall hear any evidence or argument presented by the objector, and the city commission shall have the power to decrease or adjust the amount of the assessments made against each lot, parcel or tract of land, but no such assessment shall be increased against any land after the assessment has once been made until written notice by mail has been given to the owner of such land of an intention to increase such assessment with an opportunity to protest against such increase within ten days after the mailing of such notice.

Any person owning or having any interest in any land against which such assessment has been made who fails to make complaint to the city commission within the times herein named after notice as aforesaid shall be deemed and held to have consented to the assessment, and any such person who shall present his objection and is dissatisfied with the action of the city commission thereon may within 30 days thereafter apply to a court of competent jurisdiction for an injunction against the collection or enforcement of the assessment, and if no application for injunction is made within the 30 days, such person, or his heirs, successors or assigns, or successors by title by any means shall not thereafter be heard in any proceedings in any court, either at law or in equity, as plaintiff or defendant, to question or contest the legality of such assessment.

(Ord. No. 88-07, § 1, 1-25-88)

Sec. 108. Assessments to constitute lien against property improved.

Each such assessment shall constitute and be a lien against the land upon which the same is made from a date which shall be designated by the city commission by resolution, which lien shall be prior and superior in dignity to all other liens thereon, except liens for ad valorem taxes assessed against the property, and the amount of such assessment shall bear interest from the date of making such assessment at a rate to be fixed by said resolution not to exceed 15 percent per annum payable annually. The amount of the assessment shall be paid within such period of time as shall be determined by the city commission, not exceeding ten years from the date of the same, and shall be so divided that an equal proportion of the same shall be paid annually for each year of the period fixed for the payment of same.

(Ord. No. 88-07, § 1, 1-25-88)

Sec. 109. Improvement lien book.

The city commission shall cause to be prepared and kept by the finance director an improvement lien book, in which shall be entered the date of each assessment, the amount of the same and the description of the property upon which the assessment is made, when the same shall be payable and the general purpose for which made. A true copy of the improvement lien book shall be filed and recorded in the public records of Volusia County, Florida. The entry of the assessment in the lien book shall constitute a notice to the public of the lien against said land, and no other notice thereof shall be necessary to any person, and a true copy of said improvement lien record shall be filed and recorded in the public records of Volusia County, Florida.

(Ord. No. 88-07, § 1, 1-25-88)

Sec. 110. Payment of cost of improvement.

The owner of any land against which any assessment is proposed may pay the expense of the improvement prior to the making of such assessment, or he may pay the lien or any installment of the same at any time prior to suit thereon by paying the amount of the assessment and interest thereon computed to a date 30 days subsequent

to the date of payment, subject to any provisions contained in any resolution or other proceedings authorizing the issuance of assessment bonds or other obligations payable from special assessments.

(Ord. No. 88-07, § 1, 1-25-88)

Sec. 111. Municipal improvement certificate of lien; authorization for issuance; description; execution; registration; payment.

If the city commission provides for any municipal improvements to be paid by any special assessments against any property benefited by the improvements, as provided in this article, in lieu of issuing municipal improvement bonds to provide funds to pay for that portion of the work to be paid by special assessments, the city commission may provide for the issuance of municipal improvement certificates of lien for the amount so assessed against the property benefited or the adjoining or contiguous or abutting property assessed as hereafter provided.

A separate municipal improvement certificate of lien shall be issued against each tract or lot of land assessed, for the amount of the assessment against the same, which shall be signed in the name of the city by the mayor-commissioner and attested by the city clerk, and under the seal of the city, and shall contain a description of the land assessed and the amount of the assessment together with the general nature of the improvement for which the assessment is made, the date thereof, and an assignment to the holder of such public improvement certificate of lien of the lien entered against the said land. The certificate shall be made payable to the holder in a number of installments equal to the number of special assessments made against the property on which the lien is claimed and shall bear interest at the same rate and shall be payable at the same time as the special assessments. The installment of principal and interest shall be paid to the holder of such certificate upon the presentation of the same for payment and the final installment of principal and interest shall be payable only upon the surrender and cancellation of the certificate. The holder of any such certificate may present the same for registration with the finance director and by the registration the finance director shall note on the record of the certificate and on the certificate the name of the holder and thereafter payment may be made of the installments (except the last and final installment) to the registered holder in lieu of the presentation of such certificate, and payment to the registered holder shall be a complete discharge of the amount so due. Any holder of such registered certificate may thereafter present the same for registration so that the amount due shall be payable only to the holder upon presentation of the same.

The municipal improvement certificates of lien shall neither be nor constitute obligations of the city, and the payment of such certificates or the annual interest thereon shall not be guaranteed by the city, but the holder of such certificates shall look only to the lien on the land for collection of the same.

If any installment of interest or principal upon any certificate is not paid within 30 days after maturity of the same, the holder may elect to consider the whole amount expressed in the certificate as immediately due and payable.

If the amount due on such certificate of lien is fully paid, upon the surrender of the same to the finance director the fact of such payment in full shall be noted on the entry of the special assessment and shall constitute a discharge of the lien of the same, and a certificate of such discharge signed in the name of the city by the finance director shall be recorded in the public records of Volusia County, Florida.

The owner of any lot or tract of land so assessed may pay to the finance director the full amount due for principal and interest of any special assessment, the interest to be computed to a date 30 days subsequent to the date of such payment, and thereupon the finance director shall make note of the fact of such payment and notation of payment shall fully discharge the lien of said special assessment, a certificate of discharge shall be filed in the public records of Volusia County, Florida, and thereafter the moneys paid to the finance director shall be paid to the holder of said certificate upon the surrender of the same for cancellation.

(Ord. No. 88-07, § 1, 1-25-88)

Sec. 112. Sale of municipal improvement certificates of lien.

The city commission shall have the option either to sell the municipal improvement certificates of lien to procure funds to finance the portion of the work to be paid from special assessments, or to require the contractor to accept the certificates at par in full payment of the portion of said work to be paid by special assessments when completed.

(Ord. No. 88-07, § 1, 1-25-88)

Sec. 113. Enforcement of payment of municipal improvement certificates of lien.

If any special assessment against any tract or lot of land is not paid when due, the lien for the same may be enforced in the name of the holder thereof by appropriate court proceedings to foreclose the lien which shall set forth briefly the issuance of the certificate, the amount thereof, the description of the property under which the lien has been acquired and against which said certificate was issued and shall contain the prayer that the defendant be compelled to pay the amount of said lien, or in default thereof, that the property shall be sold to satisfy the same, but the decree obtained in such suit shall not be enforced against or be a lien upon any property other than that against which the assessment was made and no judgment or deficiency decree shall be entered. In addition to the principal and interest of the special assessment, the plaintiff shall be entitled to recover all costs and expenses of said suit, including moneys paid for searches of title, and in addition thereto a reasonable attorney's fee for the services of the attorney for the plaintiff in foreclosing the lien for such special assessment. The suit shall proceed in the same manner as suits for the foreclosure of mortgage or other liens; however, any number of municipal improvement certificates of lien and any other number of defendants and any number of tracts or lots of land may be included in the same suit and any number of plaintiffs holding such certificates of lien may join in the same suit. Any sale to enforce such liens shall divest the title to or the liens on said land of all persons who are parties defendant in the suit, except the liens for ad valorem taxes, to which they are inferior.

(Ord. No. 88-07, § 1, 1-25-88)

Sec. 114. City not liable for payment of municipal certificates of lien.

All contracts made under the provisions of this article for municipal improvements which are payable from municipal improvement certificates of lien may specifically provide that for the cost of the work assessed against the property benefited or the property adjoining and contiguous or abutting, the contractor shall look exclusively to the municipal improvement certificates of lien, or the moneys derived from the sale thereof, as his sole source of payment of compensation from the city for doing the work, and the city shall not be liable under the contract for the amounts, but only for the proportion of the work to be paid by the city and not from special assessments.

(Ord. No. 88-07, § 1, 1-25-88)

Sec. 115. Errors not to invalidate certificates.

Any certificates of lien issued hereunder shall constitute prima facie evidence of the amount and existence of the lien upon the property described, and the same shall not be invalidated, nor shall the lien for such special assessments be defeated, because of any errors, mistakes or typographical errors relative to the assessment, the description of the property, the amount due or the dates of maturity of the same, or any irregularities which shall not affect any substantial rights, but such errors may be corrected at any time, and thereupon the true amount due may be collected regardless of such errors.

(Ord. No. 88-07, § 1, 1-25-88)

Sec. 116. Municipal improvement bonds.

In lieu of the issuance of municipal improvement certificates of lien, the city commission may, by resolution, authorize the issuance of municipal improvement bonds as provided in this Charter, to be designated as "Municipal Improvement Bonds, Series No. _____," In an amount not in excess of the aggregate amount of the liens levied for municipal improvements. These bonds shall be payable from a special fund to be known as the "Municipal Improvement Fund Series No. _____," Which shall be used solely for the payment of the principal and interest of the "Municipal Improvement Bonds, Series No. _____," And for no other purpose. This fund shall be deposited in a separate bank account and all the proceeds collected by the city from the principal, interest and penalties of the liens shall be deposited and held in said fund. The bonds issued shall never exceed the amount of liens assessed, and the bonds shall mature not later than six months after the maturity of the last installment of the liens. The bonds shall bear certificates signed by the city clerk certifying that the amount of liens levied, the proceeds of which are pledged to the payment of said bonds, are equal to the amount of the bonds issued. The bonds may be delivered to the contractor in payment or part payment for his work, or may be sold as provided in this Charter, and the proceeds to be used in paying for the cost of the work. The bonds shall not be a charge on, or payable out of, the general revenues of the city, but shall be payable solely out of said assessments, installments, interest and penalties. Any surplus remaining after payment of all bonds and interest thereon shall revert to the city and be used for any municipal purpose.

(Ord. No. 88-07, § 1, 1-25-88)

Sec. 117. New assessments required until valid assessment is made if special assessment is omitted or held invalid.

If any special assessment made under the provisions of this article to defray the whole or any part of the expense of any improvement shall be either in whole or in part annulled, vacated or set aside by the judgment of any court, or if the city commission shall be satisfied that any such assessment is so irregular or defective that the same cannot be enforced or collected, or if the city commission shall have omitted to make such assessment when it might have done so, the city commission shall take all necessary steps to cause a new assessment to be made for the whole or any part of any improvement or against any property benefited for the whole or any part of any improvement or against any property benefited by any improvement, following as nearly as may be the provisions of this Charter, and in case such second assessment shall be annulled, the city commission may obtain and make other assessments until a valid assessment shall be made.

(Ord. No. 88-07, § 1, 1-25-88)

Sec. 118. Expenses to be included in cost of improvements.

All expenses incurred by the city for engineers in planning and supervising the work, and for attorney's fees and other expenses in connection with the construction of the municipal improvements, and expenses of printing, issuing, and recording the municipal improvement certificates of lien, may be included in the expense of the improvement to be paid by special assessments.

(Ord. No. 88-07, § 1, 1-25-88)

Sec. 119. Special assessments for local improvements acquired in whole or in part or completed by the city.

In the event that the city shall acquire sewer improvements, water improvements or any other local improvements from the owners thereof, for which assessments can be legally levied against the lands and real estate benefited thereby, either in the territory of the city as it now exists or in any territory hereafter annexed by the city in the manner provided by law, the city may assess all or any part of the cost thereof against the lands and real estate benefited by the construction of the sewer, water, or other local improvements.

In the event that the city shall acquire from the owner thereof any sewer, water or other local improvements which have been partly constructed and it is necessary for the city to complete the construction of the sewer, water or other local improvements, the city shall have power to levy special assessments against the lands and real estate which have been benefited or will be benefited by the completion of the sewer, water or local improvements and the special assessments for the completion of the construction of such sewer, water or other local improvements may be levied at the same time and in the same proceeding with any special assessments levied pursuant to this section on such lands or real estate for the acquisition of the part of such sewer, water or other local improvements already constructed prior to their acquisition by the city. It is the intention of this section that the city shall not be required to levy separately special assessments for the parts of such sewer, water or other local improvements which have been completed and are acquired from the owners thereof by the city and for the part of such sewer, water or other local improvements which the city shall thereafter complete. It is the intention of this section that one assessment may be levied in one proceeding against the lands and real estate benefited for the part of such sewer, water or other local improvements already acquired from the owners thereof and the part of such sewer, water or other local improvements thereafter completed by the city.

The power to levy the special assessments provided for in this section shall not be exercised by the city unless a petition is filed in the office of the city clerk signed by the owners of at least 50 percent of the amount of the assessed valuation of all the lands and real estate benefited by such sewer, water or other local improvements according to the assessed valuation then in effect in the city at the time of the filing of such petition.

The amount of special assessment to be levied and assessed pursuant to this section shall not in any event exceed the cost to the city of acquiring of any such sewer, water or other local improvements, or part thereof, from the owners thereof, together with the cost of the completion by the city of any of such sewer, water or other local improvements which may not have been completed at the time of the acquisition thereof by the city and which are subsequently completed by the city, together with the reasonable and proper expenses of the city in the making and levying of such assessments and all other proceedings connected therewith.

Any special assessments levied pursuant to this section shall in all other respects be levied and made in the manner provided in this Charter and by general law.

(Ord. No. 88-07, § 1, 1-25-88)

ARTICLE XV. REVOLVING FUND

Sec. 120. Power to create revolving fund and provide for the use of moneys therein.

The city may create a revolving fund into which may be paid the proceeds of special assessments not pledged for outstanding bonds or certificates of liens, and surplus revenues from excise taxes levied by the city or from other sources available to the city, exclusive of ad valorem taxes.

The city may issue and sell improvement bonds secured by special assessment liens held in the revolving fund in the same manner that improvement bonds may be sold under other sections of this Charter or under general law. Proceeds from the sale of such improvement bonds shall be deposited in the revolving fund.

(Ord. No. 88-07, § 1, 1-25-88)

Sec. 121. Use of moneys.

Moneys in the revolving fund may be used by the city to construct improvements for which, and to the extent that, special assessments are levied against the property so improved; for the payment of principal and interest on any outstanding improvement bonds issued by the city, including principal and interest on improvement bonds secured by assessment liens held in said revolving fund; for the purchase of special assessment liens against property located within city limits; or for the purchase of bonds or certificates of indebtedness of the city, which are secured by special assessment liens, at a price not to exceed par and accrued interest.

(Ord. No. 88-07, § 1, 1-25-88)

Sec. 122. Trustee and trust agreements.

The city commission may designate by resolution a trustee in connection with the operation of the revolving fund and enter into a trust agreement or other forms of agreements which it shall deem advisable, all of which covenants, agreements and contracts shall be legally binding obligations of the city in accordance with the terms thereof.

(Ord. No. 88-07, § 1, 1-25-88)

ARTICLE XVI. WATER AND SANITARY SEWER SYSTEM

Sec. 123. Authorization to construct water and sewer system.

The city is hereby authorized and empowered:

- (1) To construct and to improve, extend, enlarge and reconstruct water and wastewater systems inside or outside the corporate limits of the city. The water and wastewater systems shall include any plant, system, facility or property used or useful in connection with the distribution of water, collection, treatment, purification or disposal of sewage, including industrial wastes resulting from the processes of industry, manufacture, trade or business, and shall include well houses, treatment plants, plumbing stations, sanitary sewers, and any other pipes mains and equipment, and any real property required or desirable for the operation of a complete water and wastewater system.
- (2) To issue water and sewer revenue bonds, which are payable solely from the water sales and sewer service charges, special assessments, excise taxes or any combination thereof, to pay all or part of the cost of such construction.
- (3) To issue general obligation bonds which are payable from unlimited ad valorem taxes, or from such taxes and additionally secured by a pledge of water sales and sewer service charges, special assessments, excise taxes or any combination thereof, to pay all or a part of the cost of such construction or reconstruction.

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- (4) To fix and collect rates, fees and other charges for the services and facilities furnished by any water and wastewater system or sewer improvements, and to fix and collect charges for making connections with the water and wastewater system of the city.
 - (5) To receive and accept grants from any governmental agency for aid in the planning, construction or reconstruction or extension of such systems, and to do any other acts, perform any other services, and enter into any contracts and obligations for the purpose of constructing, extending or reconstructing a complete water and wastewater system.

In the construction of a water and wastewater system and water and sewer improvements the city commission may provide for the construction of a system of water lines and sanitary sewers within the city and for the assessment of the cost of construction of the system in the manner now provided by law against the property benefited by the improvement, or upon the abutting property, in proportion to the frontage, and issue bonds to be paid from the special assessments, or it may provide for the construction of such water and sewer improvements and assess the cost of the same against the property especially benefited or abutting on such water and sewer system, and issue public improvement certificates of lien for the cost thereof as provided in this Charter or by general law.

(Ord. No. 88-07, § 1, 1-25-88)

Sec. 124. Proceeds of sale of bonds.

If any water and sewer revenue bonds are issued under the provisions of this article and the proceeds from the sale of the same are applied to the payment of all or a part of the construction of any water and sewer improvements for which special assessments against the property benefited or abutting property are made, the special assessments and the proceeds of the collection thereof shall be pledged to the payment of the principal of and the interest on such water and sewer revenue bonds. The proceeds of such bonds shall be used solely for the payment of the cost of the authorized water and wastewater systems or sewer improvements. If the proceeds of any such bonds are less than the cost of completing the construction of the system, additional bonds may in like manner be issued to provide the amount of such deficit, upon such terms and conditions as shall be provided in the ordinance or resolution authorizing the issuance of the same.

(Ord. No. 88-07, § 1, 1-25-88)

Sec. 125. Payment of bonds.

For the payment of the principal of and the interest on any general obligation bonds of the city issued under the provisions of this Charter, the city commission is hereby authorized and required to levy annually a special tax upon all taxable property within the city over and above all other taxes authorized or limited by law sufficient to pay such principal and interest as the same respectively become due and payable, and the proceeds of all such taxes when collected shall be paid into a special fund and used for no other purpose than the payment of such principal and interest. However, there may be pledged to the payment of such principal and interest the proceeds of water sales and sewer service charges, special assessments, excise taxes or any combination thereof, and in the event of such pledge the amount of the annual tax levy herein required may be reduced in any year by the amount of such proceeds actually received in the preceding year and then remaining on deposit to the credit of the special fund for the payment of such principal and interest.

Water and sewer revenue bonds issued under the provisions of this article shall not be deemed to constitute a pledge of the faith and credit of the city, but shall be payable solely from the funds provided therefor under the provisions of this article. All such bonds shall contain a statement on their face substantially to the effect that the city is not obligated to pay such bonds, or the interest thereon, except from such funds, and that the faith and credit of the city are not pledged to the payment of the principal of or the interest on such bonds. The issuance of

water and sewer revenue bonds under the provisions of this article shall not directly or indirectly or contingently obligate the city to levy any taxes whatever therefor, except such excise taxes the proceeds of which may have been pledged toward payment of said bonds, or to make any appropriation for their payment except from the funds pledged under the provisions of this article.

The ordinance or resolution authorizing the issuance of water and sewer revenue bonds under the provisions of this article shall pledge the revenues to be received, but shall not convey or mortgage any water or wastewater system or sewer improvements or any part thereof, and may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the city and of the city commission in relation to the construction, reconstruction, improvement, maintenance, operation, repair and insurance of the water or wastewater system or systems, and the sewer improvements, if any, and provisions for the custody, safeguarding and application of all monies. In addition to the foregoing, such ordinance or resolution may contain such other provisions as the city commission may deem reasonable and proper for the security of the bondholders.

The ordinance or resolution providing for the issuance of water and sewer revenue bonds may also contain such limitations upon the issuance of additional water and sewer revenue bonds as the city commission may deem proper, and such additional bonds shall be issued under such restrictions and limitations as may be prescribed by such ordinance or resolution.

No water and sewer revenue bonds shall be issued under the authority of this article unless the city commission shall have theretofore found and determined:

- (1) The estimated cost of the water or wastewater system and of the sewer improvements, if any, on account of which bonds are to be issued.
- (2) The estimated annual revenues of such water and wastewater system or systems, and of such sewer improvements, if any, and any other special funds pledged therefor.
- (3) The estimated cost of maintaining, repairing and operating such system or systems.

Furthermore, no water or sewer revenue bonds shall be issued unless it appears from such estimates that the annual revenues will be sufficient to pay such cost of maintenance, repair and operation and the interest on such bonds and the principal thereof as such interest and principal shall become due.

(Ord. No. 88-07, § 1, 1-25-88)

Sec. 126. Rates, fees and charges for use of water and sewer system.

The city commission shall fix the initial schedule of rates, fees and other charges for the use of, and for the services and facilities furnished or to be furnished by the water and wastewater system to be paid by the owner, tenant or occupant of each lot or parcel of land which may be connected with or use any such water or wastewater system. After the system has been in operation the city commission may revise such schedule of rates, fees and charges from time to time. Such rates, fees and charges shall be fixed and revised to provide funds, with other funds available for such purposes, sufficient at all times:

- (1) To pay the cost of maintaining, repairing and operating the system, including reserves for such purpose and for such replacements and depreciation and necessary extensions;
- (2) To pay the principal of and the interest on the water and sewer revenue bonds as the same shall become due and reserves therefor; and
- (3) To provide a margin of safety for making such payments.

The city shall charge and collect the rates, fees and charges, which shall not be subject to supervision or regulation by any other commission, board, bureau or agency of the state or of any sanitary district or other political subdivision of the state.

Such rates, fees and charges shall be just and equitable, and may be based or computed either upon the quantity of water consumed, or upon the number and size of sewer connections, or upon the number and kind of plumbing fixtures in use in the premises connected with the sewer systems, or upon the number or average number of persons residing or working in or otherwise connected with such premises, or upon any combination of the foregoing factors.

Charges for services to premises, including services to manufacturing and industrial plants, obtaining all or a part of their water supply from sources other than the water system of the city may be determined by gauging or metering or in any other manner approved by the city commission.

In cases where the character of the sewage from any manufacturing or industrial plant, building or premises is such that it imposes an unreasonable burden upon any sewage disposal system, an additional charge may be made therefor, or the city commission may, if it deems it advisable, compel such manufacturing or industrial plant, building or premises to treat such sewage in such manner as shall be specified by the city commission before discharging such sewage into any sewer lines owned or maintained by the city.

In lieu of levying special assessments upon benefited property on account of the construction or reconstruction of water and sewer improvements under the provisions of this Charter, the city may charge and collect such rates, fees and charges for the services and facilities furnished or to be furnished by such water and sewer improvements to premises connected therewith as may be just and equitable, taking into account the total amount of bonds authorized for such water and sewer improvements.

No rates, fees or charges shall be fixed under the foregoing provisions of this section until after a public hearing at which all of the users of the water and wastewater system and owner, tenants or occupants of property served or to be served thereby and all others interested shall have an opportunity to be heard concerning the proposed rates, fees and charges.

The city may require the owner, tenant or occupant of each lot or parcel of land within the city who is obligated to pay the rates, fees or charges for the services and facilities furnished by any water or wastewater system or sewer improvements constructed or reconstructed by the city under the provisions of this Charter to make a reasonable deposit in advance to insure payment of such rates, fees or charges and to be subject to application to the payment thereof if and when delinquent.

If any rates, fees or charges for the services and facilities furnished by any water or wastewater system or sewer improvement constructed or reconstructed by the city under the provisions of this Charter or any installment of special assessments levied on account of the construction or reconstruction of any water and sewer improvements hereunder, shall not be paid within 30 days after the same shall become due and payable, the city may at the expiration of such 30 day period disconnect the premises from the water and/or sewer system, and the city may proceed to recover the amount of any such delinquent rates, fees or charges or installments of special assessments, with interest, in an action at law, or foreclose the lien of special assessments in appropriate court proceedings.

(Ord. No. 88-07, § 1, 1-25-88)

Sec. 127. Use of water and sewer system may be required.

Upon the construction of a reclaimed water, water and wastewater system, the owner, tenant or occupant of each lot or parcel of land within the city which abuts upon a street or other public way containing a water line or sanitary sewer served or which may be served by the reclaimed water, water or wastewater system, or which is within 200 feet of such water or sewer line, and upon which lot or parcel a building shall have been constructed for

residential, commercial or industrial use, shall, if so required by ordinance duly passed, connect such building with such water or sanitary sewer, and shall cease to use any other method for the acquisition of water or disposal of sewage, sewage waste or other polluting matter. All such connections shall be made in accordance with rules and regulations which shall be adopted by the city commission, which rules and regulations may provide for a charge for making any such connection in such reasonable amount as the city commission may fix and establish.

(Ord. No. 88-07, § 1, 1-25-88; Ord. No. 2005-32, § 2, 6-20-05, effec. 10-11-05)

Sec. 128. Disposition of revenues from water and sewer systems.

All revenues derived from any water or wastewater system or sewer improvements for which a single issue of water and sewer revenue bonds is, except any revenues required to pay the cost of maintaining, repairing and operating such system and to provide reserves therefor as provided in the ordinance or resolution authorizing the issuance of such water and sewer revenue bonds, and the proceeds of all special assessments pledged to the payment of the principal of and the interest on such water and sewer revenue bonds, shall be set aside at regular intervals as provided in the ordinance or resolution and deposited for the credit of the following separate funds for the following purposes:

- (1) Sinking fund for the payment of the interest on and the principal of the water and sewer revenue bonds as they become due, necessary charges of paying agents for paying such interest and principal, and any premium upon bonds retired by call or purchase before their maturity or respective maturities, including the accumulation of a reserve for such purpose.
- (2) A fund for anticipated renewals, replacements and extraordinary repairs.

The use and disposition of monies to the credit of such sinking funds shall be subject to regulations provided in the ordinance or resolution authorizing the issuance of the water and sewer revenue bonds and, except as may otherwise be provided in such ordinance or resolution, such sinking fund shall be for the benefit of all bonds without distinction or priority of one over another.

Nothing contained in this section shall be construed as providing for the order of priority of the application of the water and sewer revenues and the city may use and pledge water and sewer revenues for debt service, operation and maintenance and other purposes in any order of priority it determines in the proceedings authorizing the issuance of any water and sewer revenue bonds.

(Ord. No. 88-07, § 1, 1-25-88)

Sec. 129. Rights of bondholders.

Any holder of bonds issued under the provisions of this article, or any holder of the coupons appertaining thereto, except to the extent the rights herein given may be restricted by the ordinance or resolution authorizing the issuance of such bonds, may in appropriate court proceedings protect and enforce any and all rights under general law or granted hereunder or under such ordinance or resolution, and may enforce and compel the performance of all duties required by this article or by such ordinance or resolution to be performed by the city, or by the city commission, or by an officer thereof, including the fixing, charging and collecting of rates, fees and charges for the services and facilities furnished by the waterworks and sewer improvements and the levying and collecting of any special assessments or excise taxes pledged for the payment of said bonds.

(Ord. No. 88-07, § 1, 1-25-88)

Sec. 130. Water and sewer system not to be taxed.

Because proper facilities for the collection, treatment and purification of water and collection, treatment and disposal of sewage are essential for the health of the inhabitants of the city and for its industrial and commercial development, and because the exercise of the powers conferred by this Charter to effect such purposes constitutes the performance of essential municipal functions, and because the water and wastewater system of the city, including any water treatment facilities and sewage disposal system constructed under the provisions of this Charter, constitutes public property and is used for municipal purposes, the city shall not be required to pay any taxes or assessments upon any such water and wastewater system or any part thereof whether located within or without the territorial boundaries of the city.

(Ord. No. 88-07, § 1, 1-25-88)

Sec. 131. Costs; items in contemplation of water and sewer system; supplemental nature of article.

The word "cost" as applied to a water or wastewater system or to extensions thereto or to water and sewer improvements shall include the cost of construction or reconstruction, the cost of all labor, materials, machinery and equipment, the cost of all lands, property, rights, easements and franchises acquired, financing charges, interest prior to and during the construction and for one year after completion of construction, cost of plans and specifications, surveys and estimates of cost and of revenues, cost of engineering and legal services, and all other expenses necessary or incident to determining the feasibility or practicability of such construction or reconstruction, administrative expenses and such other expenses as may be necessary or incident to the financing herein authorized. Any obligation or expense heretofore or hereafter incurred by the city in connection with any of the foregoing items of cost may be regarded as a part of such cost and reimbursed to the city out of proceeds of bonds issued under the provisions of this article.

If any suit or action shall be brought by the city to enforce the payment of any charges or to foreclose the lien for any special assessment, the city shall be entitled to recover, in addition to the principal and interest, all costs and expenses of such suit or action, including all reasonable attorney's fees incurred by the city in such suit or action.

This article shall be deemed to provide an additional and alternative method for the doing of the things authorized and shall be regarded as supplemental and additional to other powers conferred by this Charter and by other laws, and shall not be regarded as in derogation of any powers now existing.

(Ord. No. 88-07, § 1, 1-25-88)

Sec. 132. Water and sewer systems; definition of.

Wherever in this article the word or words "sewer" and "sewage" system, or words of similar import, are used, the meaning shall include water, waterworks, water systems, and works of similar import or any combinations of wastewater, sewer and water systems plants or facilities.

(Ord. No. 88-07, § 1, 1-25-88)

ARTICLE XVII. PENSIONS, INSURANCE AND RETIREMENT

DIVISION 1. IN GENERAL

Sec. 133. Authorized.

- (1) The city commission shall have authority to establish by ordinance pension, annuity and retirement systems for any or all groups of officers and employees employed by the city as authorized by law. Any such pension, annuity and retirement system may be established on a joint contributory basis with the officers and employees paying part of the cost and the city contributing into said system the balance in an amount necessary to create an adequate pension plan. If the system is a defined benefit retirement plan, the cost of the system shall be determined actuarially on the basis of mortality and service approved by the city commission and shall be calculated and contributed on a uniform or decreasing percentage of the payroll of members if such plan is a contributory plan. Any such system may provide for the manner in which officers and employees may come under the operation of such system and provide for repayment to members leaving the service of the city.
- (2) The city commission shall have the authority to provide the benefits contemplated by this section under insurance contracts issued by a carrier authorized to do business in Florida or by such other investments as are or shall be approved by law.

(Ord. No. 88-07, § 1, 1-25-88; Ord. No. 2005-35, § 1, 6-20-05, effec. 10-11-05)

***DIVISION 2. POLICE AND FIREFIGHTER AND GENERAL EMPLOYEE RELIEF AND
PENSION FUND; OTHER BENEFITS***

Sec. 134. Funds extended; abandonment.

There are hereby created and extended as they now exist a municipal police officers retirement fund and a municipal firefighters retirement fund. A board of trustees is hereby established for each of these pension funds as provided by general law. The city commission may elect, however, to provide a local pension plan or plans for the benefit of the fire department or police department.

In the event of abandonment of any existing retirement plan, it shall take a two-thirds majority vote of the eligible membership of the respective funds to dissolve the fund in favor of a local pension plan. Dissolution of the funds shall be as provided by general law.

(Ord. No. 88-07, § 1, 1-25-88)

Sec. 135. General employees retirement fund.

There is hereby extended as it now exists a general employees retirement fund for the voluntary or involuntary participation of all full-time employees of the city who are not eligible for either the firefighter or police officer retirement funds. This fund may be contributory or noncontributory as the city commission by ordinance may specify. In addition, authority is hereby given for the city and its qualified employees to participate in any other pension fund authorized by general law.

(Ord. No. 88-07, § 1, 1-25-88)

Sec. 136. Reserved.

Editor's note(s)—Ord. No. 2005-35, § 2, adopted June 20, 2005, and approved by the voters Oct. 11, 2005, repealed § 136, which pertained to sources of revenue enumerated and derived from Ord. No. 88-07, § 1, adopted Jan. 25, 1988.

Sec. 137. Pensions prohibited to designated person.

No eligible member of the city general employee retirement plan shall be entitled to a pension under this division who is convicted of a felony related to city duties.

(Ord. No. 88-07, § 1, 1-25-88; Ord. No. 97-34, § 1, effec. 10-1-97)

Sec. 138. Pension not bar to engaging in other business.

The acceptance of a pension by a member of any pension fund of the city upon retirement shall not bar that member from engaging in any other business thereafter.

(Ord. No. 88-07, § 1, 1-25-88)

Sec. 139. Reserved.

Editor's note(s)—Formerly, § 139 pertained to transfer of police and fire department pension funds assets to board of trustees created therefor.

Sec. 140. City authorized to adopt actuarially sound plan for pension and relief benefits.

The city commission is hereby authorized to adopt an actuarially sound plan providing for pension and relief benefits for all full-time employees of the city. The benefits shall be no less than those provided by general law and shall be administered as provided in this Charter and by general law. It is the intent of this section to guarantee municipal employees minimum benefits as provided by the respective state pension plans for each class of employees or to provide employees with opportunity to self direct their pension plan through establishment of a defined contribution program.

(Ord. No. 88-07, § 1, 1-25-88; Ord. No. 2005-35, § 3, 6-20-05, effec. 10-11-05)

Sec. 141. Health and accident insurance, accidental death and dismemberment, life insurance, savings plans, credit unions, provisions for.

The city commission of the city may provide for the benefit of its employees various fringe benefits and contribute all or any part of the expense of these benefits. The city commission may provide accident and health insurance, accidental death and dismemberment insurance and life insurance on a contributory or noncontributory basis. In addition, the city commission may create by ordinance a credit union and/or employee savings plan for the benefit of its employees. The city commission may in its discretion participate in the funding of such credit union or savings plan.

(Ord. No. 88-07, § 1, 1-25-88)

ARTICLE XVIII. GENERAL AND MISCELLANEOUS PROVISIONS

Sec. 142. Removal of members of boards, commissions or agencies.

Except as provided in this Charter, a member of any board, commission or agency of the city who has been appointed by the city commission may be removed by the city commission.

(Ord. No. 88-07, § 1, 1-25-88)

Sec. 143. Publicity of records.

All records and accounts of every office, department or agency of the city shall be open to inspection by the public pursuant to general law regarding public records.

(Ord. No. 88-07, § 1, 1-25-88; Ord. No. 2005-32, § 3, 6-20-05, effec. 10-11-05)

Sec. 144. Personal interest in city transactions.

No member of the city commission, the city manager or the city purchasing agent or other city employee with authority to purchase, shall have a financial interest, direct or indirect, in any contract for municipal improvements, or in the sale to the city, of any land, rights or interests in any land, material, supplies or services of any kind purchased by the city at a cost in excess of \$50.00. Any willful violation of this section with the knowledge expressed or limited of the person or corporation contracting with the city shall render the contract voidable by the city manager or the city commission.

(Ord. No. 88-07, § 1, 1-25-88; Ord. No. 97-34, § 1, effec. 10-1-97)

Sec. 145. Official bonds.

The city commission shall determine which officers and employees of the city shall give bond, and the amount thereof, but all officers and employees handling any funds or property of the city shall be required to give bond to the city, unless otherwise provided for under the City's blanket coverage providing coverage for all employees. The bond shall be procured from a regularly accredited surety company authorized to do business in the state. The premiums of such bonds shall be paid by the city. All such bonds shall be filed in the office of the city clerk.

(Ord. No. 88-07, § 1, 1-25-88; Ord. No. 2005-32, § 4, 6-20-05, effec. 10-11-05)

Sec. 146. Oath of office.

Every administrative officer of the city, including the mayor and city commission, the city manager, the city clerk, the city attorney, and all department heads, before entering upon the duties of office, shall take and subscribe to the following oath or affirmation, to be filed and kept in the office of the city clerk:

I do solemnly swear (or affirm) that I will support, protect and defend the Constitution and Government of the United States and of the State of Florida; that I will, in all respects, observe the provisions of the Charter and ordinances of the City of DeLand; and that I will well and faithfully discharge the duties of the office of _____.

The city commission may require the taking of the oath of office by any additional city officer or employee.

(Ord. No. 88-07, § 1, 1-25-88)

Sec. 147. Effect of Charter on existing law.

All laws and parts of laws relating to or affecting the city in force when this Charter takes effect are hereby continued in effect unless they are inconsistent with the provisions of this Charter.

(Ord. No. 88-07, § 1, 1-25-88)

Sec. 148. Rights of officers and employees preserved.

Unless specifically provided, nothing in this Charter or any amendment to this Charter shall affect or impair the rights or privileges of officers or employees of the city, or of any office, department, board, commission or agency existing at the time when this Charter or any amendment to this Charter takes effect and not inconsistent with the provisions of this Charter, in relation to the personnel, appointment, ranks, grades, tenure of office, promotion, removal, pension and retirement rights, civil rights, or any other rights or privileges of officers or employees of the city or of any office, department, board, commission or agency thereof.

(Ord. No. 88-07, § 1, 1-25-88)

Sec. 149. Continuance of officers.

All persons holding administrative office at the time this Charter or any amendment to this Charter takes effect shall continue in office and in the performance of their duties until provision is made in accordance with this Charter or any amendment to this Charter for the performance of such duties by some other person or the discontinuance of such office. The powers conferred and the duties imposed upon any office, department, board, commission or agency of the city by general law shall, if the office, department, board, commission or agency is abolished by this Charter, or under its authority, or by authority of any amendment to this Charter, thereafter be exercised and discharged by the office, department, board, commission or agency designated by the city commission unless otherwise provided herein.

(Ord. No. 88-07, § 1, 1-25-88)

Sec. 150. Transfer of records and property.

All records, property and equipment of any office, department, board, commission or agency whose powers and duties are assigned to any other office, department, board, commission or agency by this Charter or any amendment to this Charter shall be transferred and delivered to the office, department, board, commission or agency to which such powers and duties are transferred. If part of the powers and duties of any office, department, board, commission or agency are assigned by this Charter or any amendment to this Charter to another office, department, board, commission or agency, all records, property and equipment relating exclusively thereto shall be transferred and delivered to the office, department, board, commission or agency to which such powers and duties are assigned.

(Ord. No. 88-07, § 1, 1-25-88)

Sec. 151. Title to property reserved to municipality.

The title, rights and ownership of property, uncollected taxes, special assessments, dues, claims, judgments, decrees and choses in action, held or owned by the city under its Charter and related laws, shall pass to and be vested in the municipal corporation organized under this Charter or any amendment to this Charter.

(Ord. No. 88-07, § 1, 1-25-88)

Sec. 152. Continuity of offices, boards, commissions or agencies.

Any office, department, board, commission or agency provided for in this Charter or any amendment to this Charter with powers and duties the same or substantially the same as those of an existing office, department, board, commission or agency shall be deemed to be a continuation of such office, department, board, commission or agency and shall exercise its powers and duties in continuation of their exercise by the office, department, board, commission or agency by which the same were heretofore exercised, and shall have power to continue any business, proceeding or other matter, within the scope of its regular powers and duties commenced by an office, department, board, commission or agency by which such powers and duties were heretofore exercised. Any provision in any law, rule, regulation, contract, grant or other document relating to any formerly existing office, department, board, commission or agency, if not inconsistent with the provisions of this Charter or any amendment to this Charter, shall apply to such office, department, board, commission or agency provided for by this Charter or any amendment to this Charter.

(Ord. No. 88-07, § 1, 1-25-88)

Sec. 153. Continuance of contracts and public improvements.

All contracts entered into by or for the benefit of the city, prior to the effective date of this Charter or any amendment to this Charter shall continue in full force and effect. Public improvements legislatively authorized under laws or Charter provisions existing at the time this Charter or any amendment to this Charter takes effect may be carried to completion as nearly as practicable in accordance with the provisions of such existing laws and Charter provisions.

(Ord. No. 88-07, § 1, 1-25-88)

Sec. 154. Pending actions and proceedings.

No civil or criminal action or proceeding pending on the effective date of this Charter or any amendment to this Charter brought by or against the city or any office, department, board, commission or agency or officer thereof, shall be affected or abated by the adoption of this Charter or any amendment to this Charter. All such actions or proceedings may be continued even though functions, powers and duties of any office, department, board, commission or agency or officer party thereto are assigned or transferred to another office, department, board, commission, agency or officer. However, in that event, the same may be prosecuted or defended by the head of the office, department, board, commission or agency to which such functions, powers and duties have been assigned or transferred by or under this Charter or any amendment to this Charter.

(Ord. No. 88-07, § 1, 1-25-88)

Sec. 155. Existing ordinances.

All existing ordinances of the city not in conflict with the provisions of this Charter or any amendment to this Charter shall continue in effect and unimpaired until repealed, amended or modified by the city commission.

(Ord. No. 88-07, § 1, 1-25-88)

Sec. 156. Reservation of the name "DeLand."

No municipal corporation shall be formed in the State of Florida having as part of its name the word "DeLand" unless the city commission approves the use of the name by that municipal corporation.

(Ord. No. 88-07, § 1, 1-25-88)

Sec. 157. Validation of acts under prior Charter.

All official acts, ordinances and resolutions of the city commission done and adopted prior to the passage of this Charter are hereby approved, ratified, and made legal as fully and completely as though all requirements and details by any general or special law governing and relating to the same had been done and performed, in the event that such acts, ordinances or resolutions may have been defective, illegal or unconstitutional.

(Ord. No. 88-07, § 1, 1-25-88)

Sec. 158. Extension of the corporate limits of the city.

The city may annex contiguous territory to the city by any of the following methods or by any other method provided by general law:

- (1) By referendum election in which all qualified voters of the territory to be annexed shall be eligible to vote. Such annexation shall be approved by a majority of the votes cast in any such election. The election shall be held pursuant to and after a resolution calling for same has been passed by the city commission and after notice of the proposed election has been published pursuant to general law governing annexation referendums. The resolution and notice shall contain a description of the area sought to be annexed and the date and place said election is to be held. Provisions shall be made for special registration for the election. The cost of such election shall be borne by the city.
- (2) Upon petition signed by all of the landowners of the area sought to be annexed consenting to and requesting the annexation of the area to the city. The petition shall be presented to and may be approved by the city commission, in its discretion, at a regular meeting of the commission and filed with the permanent records of the city. After the approval of the petition by the commission, at the same meeting or any regular meeting thereafter, the city commission may by appropriate ordinance annex the area described in the petition to the city in the manner provided by general law. Prior to annexing the territory the city may make such requirements of the landowners of the area to be annexed as it decides are necessary for the general health, safety and welfare of the community, including requirements relative to streets, curbs, sidewalks, sewers, storm and drainage sewers, water mains, intersections, recreation areas and parks, tree preservation and landscaping and other public facilities and concerns.
- (3) In addition to all other methods now provided by law for the extension of the territorial limits of the city by annexation of unincorporated territory, the city is hereby authorized and empowered to extend its territorial limits by the annexation of unincorporated and contiguous territory in the manner provided by and in accordance with general law.
- (4) The powers of annexation herein granted to the city shall be cumulative, supplemental and in addition to all other powers of annexation granted to the city by any other general or special law now in effect or hereafter enacted.

(Ord. No. 88-07, § 1, 1-25-88; Ord. No. 2005-32, § 5, 6-20-05, effec. 10-11-05)

Sec. 159. Amendments to Charter; Charter review committee.

This Charter may be altered or amended at any time in accordance with the provisions of general law. At least once every ten years the city commission shall appoint a Charter Review Committee to study this Charter and recommend changes, if any, to be proposed for approval by the voters as provided by general law.

(Ord. No. 88-07, § 1, 1-25-88; Ord. No. 97-34, § 1, effec. 10-1-97; Ord. No. 2014-14, § 11, 5-5-14, effec. 9-15-14)

Sec. 160. Authorization to accept gifts of real property given subject to specified conditions, reverters and obligations.

The city may accept title to real property when such property is given and donated to the city, subject to certain conditions, rights of reentry for condition broken, possibility of reverter, restrictions, covenants and obligations to be kept and performed by the city when the same are stated in the deed by which title to the property shall be conveyed to the city. Such acceptance shall be made by resolution or other formal action duly adopted by the city commission.

(Ord. No. 88-07, § 1, 1-25-88)

Sec. 161. Separability clause.

If any section or part of section of this Charter or any amendment to this Charter is held invalid by a court of competent jurisdiction, such holding shall not affect the remainder of this Charter or the amendment, nor the validity of any other section or part of a section, unless inseparably connected in meaning and effect with the section or part of section held invalid.

(Ord. No. 88-07, § 1, 1-25-88)

Sec. 162. Effective date.

This Charter shall become effective May 1, 1988.

ARTICLE XIX. GREATER DELAND AREA²

Sec. 163. Area created and defined.

- (1) There is hereby created an area defined as the "Greater DeLand Area" which surrounds the city and is described as follows to wit:

Bounded on the south by the intersection of State Road 15-A and Taylor Road with South Woodland Boulevard; bounded on the north by Old Daytona Road and Greens Dairy Road, except for that area included in the airport which will make our northern boundary irregular in shape; bounded on the east by Kepler Road, or an extension thereof; and bounded on the west by the Seaboard Coastline Railroad.

²Editor's note(s)—Special Acts, Ch. 73-441, § 1, amended the Charter by adding art. XIX, §§ 163—171. It should be noted that in accordance with § 3 of Ord. No. 88-07, adopted Jan. 25, 1988, such provisions are not amended by the Charter revision but are recodified herein as set out.

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- (2) This act reserves the above designated and described area as the logical future extension of the city limits of the city and upon annexation pursuant to the laws of the State of Florida said area shall become a part of the city, and until such time as this annexation takes place the people in this area shall not have the power or authority to incorporate nor shall any other municipality have the power to annex the aforesaid area or parts thereof.
 - (3) The city is hereby authorized to annex all or part of this contiguous territory to the city herein defined as the Greater DeLand Area by any of the methods permitted in the DeLand Charter or by any method authorized by present or future state law.

(Sp. Acts, Ch. 73-441, § 1)

Sec. 164. Water supply; disposal of sewage and wastewater.

- (1) The Volusia County Council has authority under its Charter to provide municipal-type service districts in the area surrounding DeLand. The city is hereby authorized to be the source and have authority by this act to supply water to the Greater DeLand Area as well as providing for the disposal of sewage and the treatment of waste water in said area.
- (2) Nothing contained herein shall be construed to limit the right of the people in the area to drill their own wells and to use their own septic tanks for single-family dwelling units, provided they comply with all the other laws and regulations appertaining thereto. There is no intent to exclude the installation of package sewage plants or water supply systems where the plans and specifications are in compliance with existing county, state and federal laws. In these cases, where package treatment plants or water supply systems are authorized, they shall be dedicated to the city and maintained by the city so that the public will never have to purchase said capital improvements in the future. This act recognizes the present intent between the city and the County of Volusia; but this shall not prohibit the city and the County of Volusia from entering into a future agreement wherein the County of Volusia would supply water, and provide for the disposal of sewage and wastewater treatment within the Greater DeLand Area as a logical step in the development of an area water and sewage system, and in that event any package treatment plant or water systems dedicated to the city under the provisions of this act will be conveyed to the County of Volusia by the city without cost except for existing bonded indebtedness and any legal levy of assessment.

(Sp. Acts, Ch. 73-441, § 1)

Sec. 165. Advisory board.

Three members of the planning board of the city and three members of the zoning commission of the County of Volusia having jurisdiction will provide advice and counsel relative to matters related to land use, planning, zoning and development in the Greater DeLand Area and after reviewing a land use request will make a recommendation to the zoning commission of the County of Volusia having jurisdiction for further consideration and recommendation to the Volusia County Council, except in those cases where annexation proceedings have been initiated for the land in question, in which case this advisory board will make their recommendations in writing to the planning board of the city.

(Sp. Acts, Ch. 73-441, § 1)

Sec. 166. Annexed areas to become part of city; county to relinquish areas from service district.

Upon annexation the area annexed shall be a part of the city and the county shall relinquish that area from its service districts and turn its responsibility within the area over to said city without cost to the city taxpayers other than assumption of existing bonded indebtedness and any legal levy of assessment, or, in the alternative, should the County of Volusia in the future work out an agreement with the city wherein the county shall assume responsibility for supplying water and disposing of wastewater and sewage to the people in the Greater DeLand Area, then in that event any package treatment plant or water systems dedicated to the city under the provisions of this act shall be conveyed to the County of Volusia by the city without cost except for existing bonded indebtedness and legal levy of assessment.

(Sp. Acts, Ch. 73-441, § 1)

Sec. 167. Installation of sewage collection systems and water systems by private persons, firms, etc.

The installation of sewage collection systems including package treatment plants and the installation of water systems by private persons, firms, corporations and companies within the Greater DeLand Area is hereby prohibited except those individual septic tanks and wells permitted by law for the personal use of the individual property owner and except as provided herein in Section 164.

(Sp. Acts, Ch. 73-441, § 1)

Sec. 168. Chapter 70-648, as amended incorporated by reference.

Chapter 70-648, Laws of Florida, being the Charter of the city, Florida effective October 1, 1970, as amended by Chapters 71-601, 71-602, 71-603, 72-521 and 72-522, Laws of Florida, is hereby reenacted in all respects and as completely as if set out herein ad haec verba, which provides for the government, powers, privileges and immunities and the means of exercising the same in the City of DeLand, Volusia County, Florida.

(Sp. Acts, Ch. 73-441, § 1)

Sec. 169. General laws to apply.

All general laws of the state applicable to municipal corporations, now existing or which may hereafter be enacted, and which are not in conflict with the provisions of this act or the ordinances or resolutions now in force or hereafter enacted by the city commission, shall be applicable to this city; provided, however, nothing contained in this act shall be construed as limiting the power of the city commission to enact any ordinance or resolution not in conflict with the Constitution of this state and of the United States, or with the express provisions of this act.

(Sp. Acts, Ch. 73-441, § 1)

Sec. 170. Saving clause.

The provisions of this act are severable, and if any section, part of section paragraph, sentence, or clause of this act shall be adjudged by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of any other portion thereof, but shall be restricted and limited in its operation and effect to that specific portion hereof involved in the controversy in which such decision shall have been rendered.

(Sp. Acts, Ch. 73-441, § 1)

Sec. 171. Charter and ordinances as evidence in courts.

The courts of this state shall take judicial cognizance of the Charter, ordinances and sections of the "Code of Ordinances of City of DeLand, Florida," and a certified copy or officially printed copy of the same shall be taken as evidence in any trial in which the same may be competent without proof of the due passage and approval thereof.

(Sp. Acts, Ch. 73-441, § 1)

Additional Editor's Note from Page 1— Sub-part A contains the revised Charter of the city enacted by Ord. No. 88-07, adopted Jan. 25, 1988, and approved by the electorate March 8, 1988. Sec. 1 of the ordinance provided for the amendment of §§ 1—10, 12-162; § 2 repealed §§ 45—50, 83 (see the editor's notes to those sections); and § 3 provided that §§ 163—171, though not amended, be recodified. Pursuant to § 4 of such ordinance, some section catchlines have been altered, obvious misspellings corrected and legislative history and editorial notations appended. Ord. No. 88-08, § 1, adopted Jan. 25, 1988, amended § 11 to read as herein set out. Prior to revision, the Charter of the city was derived from Special Acts of 1970, ch. 70-648 which became a law without the governor's approval and was filed in the office of the secretary of state on July 2, 1970. Special Acts, Ch. 71-601, § 3 filed in the Secretary of State's Office on June 17, 1971 provided as follows: "Section 3. That Chapter 70-648, Special Act of the State of Florida, 1970, Charter of the City of DeLand, Florida, which was effective October 1, 1970, is hereby re-enacted in all respects and as completely as if set out herein ad hoc verba, which provides for the government, powers, privileges and immunities and the means of exercising the same in the City of DeLand, Volusia County, Florida." Amendments to the Charter subsequent to Special Acts Ch. 70-648 are indicated in this history note parenthetically enclosed at the end of each section and recorded in the disposition table at the end of this volume.

Sub-Part B RELATED LAWS³

CHAPTER 72-523 Senate Bill No. 1310

AN ACT authorizing the acquiring of a beverage license by the city, Volusia County, Florida, to be used in connection with the city's airport restaurant complex, including public and pilots' lounge and improvements connected with the use of the same; providing for annual fees; providing that such license may be transferred to a lessee or permittee for the operation of business by said lessee or permittee under said beverage license in or at any clubhouse, restaurant and cocktail lounge, and similar premises, or in or at any of the same, at said complex; providing that said license shall be retransferred by any such lessee or permittee only to said city; providing that said license shall not be subject to any quota or limitation but shall be an exception to the restrictions of a quota or other limitation; and providing for an effective date.

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

Section 1 The city, Florida, hereinafter sometimes referred to as the city, shall have the power and is hereby authorized, pursuant to the provisions hereof, to acquire a beverage license, such as is provided for in Chapter 561, Florida Statutes, to be used in connection with the city's airport restaurant complex, including public and pilots' lounge and improvements connected with the use of the same, the operation of the foregoing and the use of said

³Editor's note(s)—Sub-part B contains special acts of the legislature which affect the City of DeLand, but which are nonamendatory to the city's Charter. Said acts are included herein as enacted, however the editors have added words in brackets for purposes of clarification.

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Sub-Part B RELATED LAWS

beverage license being hereby declared municipal functions, implementing the general powers conferred by the Charter of said city.

Section 2 Such beverage license shall be acquired from the state upon written or printed application for license to conduct such business, made to the district supervisor of the district of the state beverage department in which said city is located, stating the character of the business to be engaged in, the location or locations of the premises sought to be licensed, and the kind of license such as is defined in Chapter 561, Florida Statutes, which the applicant desires. The application shall be in the name of the municipality and when issued shall be issued in the name of such applicant.

Section 3 Any such beverage license shall be for the term, and subject to the same privileges of renewal, as is provided in section(s) 561.26 and 561.27 of the Florida Statutes.

Section 4 Any business operated under any such beverage license may be operated by the city, or by a lessee or permittee of the city authorized by the city to conduct such business at said airport restaurant complex, including public and pilots' lounge, in or at any clubhouse, restaurant, cocktail lounge, and similar premises, or in or at any of the same, provided that where a lessee or permittee is to operate such business, the license shall be transferred to said lessee or permittee. The city shall designate the premises to which said license is applicable. The city shall make application for the transfer of the license and the application shall be approved by the direction of the beverage department in accord with the same procedure provided for in Sections 561.18 and 561.19 of the Florida Statutes; provided, however, that any transfer of the beverage license to the lessee or permittee shall be on the condition that if the lease or permit shall be terminated at any time for any reason the lessee or permittee shall immediately retransfer the beverage license to the city, and in the event of the failure or refusal of the lessee or permittee to retransfer the beverage license, the beverage license shall be retransferred to the city upon request made in writing to the state beverage department by said city. Thereafter, the beverage license may be again transferred to any new lessee or permittee of the premises designated therefor upon the foregoing terms and conditions. It is the intent and purpose of this section of this act that the beverage license shall at all times be the property of the city, subject to its transfer from time to time as aforesaid whenever the city determines not to operate any business aforesaid itself under said beverage license.

Section 5 The issuing of such beverage license shall not be subject to any quota or limitation, but it is the intent and purpose of this act that such license shall be an exception to any such quota or limitation.

Section 6 If any section, subsection, sentence, clause, phrase, or portion of this act is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof and provided further that the operation of such license shall be otherwise subject to the rules and regulations of the state beverage department.

Section 7 This act shall take effect immediately upon becoming law.

Became a law without the Governor's approval.

Filed in Office Secretary of State April 21, 1972.

CHARTER AND RELATED LAWS DISPOSITION TABLE

Year	Act or Chapter No.	Section	Subpart	Disposition Section
1970	70-648	1-162	A	1-162
1971	71-601	1	A	1
		2	A	2 (Parcels 1-6)

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		3	A	(Note)
	71-602	1	A	2 (Parcel 7)
	71-603	1	A	2 (Parcel 8)
1972	72-521	1	A	60
		2	A	63
	72-522	1-3	A	39, 40
	72-523	1-7	B	1-7
1973	73-441	1	A	163-171
	73-442	1	A	1, 2

Ord. No.	Date	Section	Subpart	Disposition Section
76-29	9-20-76	1	A	Art. VI (note)
84-7	3-19-84	1	A	63
87-21	5- 4-87	1	A	74
88-07	1-25-88	1	A	1-10, 12-44, 51-82, 84-138, 140-162
		2 Rpld	A	45-50, 83
88-08	1-25-88	1	A	11
2005-29	6-20-05	1	A	67
			A	69
2005-30	6-20-05	1	A	4(19)
		2	A	7
		3	A	36
		4	A	37
		5	A	62
2005-31	6-20-05	1	A	4(24)
		2	A	4(49)
		3	A	31
		4	A	40
		5	A	58
		6	A	59.1
		7	A	60
2005-32	6-20-05	1	A	8
			A	73
		2	A	127
		3	A	143
		4	A	145
		5	A	158
2005-33	6-20-05	1	A	11
2005-34	6-20-05	1	A	12
		2	A	33
		3	A	78
		4	A	86

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		5	A	87
2005-35	6-20-05	1	A	133
		2 Rpld	A	136
		3	A	140
2007-46	11-19-07	1	A	80
		2 Added	A	83
		3—6 Rpld	A	85—88
2007-47	11-19-07	1	A	63
2008-34	8-18-08	1	A	67
		2	A	69
2014-14	5- 5-14	1	A	4(7), (37), (39)
		Rpld	A	4(27), (29)
		2	A	6
		3	A	7
		4	A	11
		5 Added	A	13.5
		6 Rpld	A	36
		7	A	39
		8	A	59.1
		9	A	63
		10	A	67
		11	A	159