

ORDINANCE NO. 17-2025

AN ORDINANCE OF THE CITY OF DELTONA, FLORIDA, AMENDING ARTICLE I, "IN GENERAL," ARTICLE II, "SOLID WASTE," AND ARTICLE III, "STORMWATER UTILITY," AND ARTICLE IV, "STREET LIGHTING," OF CHAPTER 54, "SPECIAL ASSESSMENTS," OF THE GENERAL ORDINANCES TO UPDATE THE PROCESS FOR ENACTING SPECIAL ASSESSMENTS AND SETTING ANNUAL RATES; PROVIDING FOR CONFLICTS, CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, the City of Deltona, Florida (the "City"), adopted Chapter 54, "Special Assessments," as part of its General Ordinances; and

WHEREAS, City Staff has reviewed the special assessments process of the City in order to align them with best practices and state law; and

WHEREAS, City Staff determined a need for additional clarity and administrative efficiency in the annual special assessment process; and

WHEREAS, the City Commission finds and determines that these modifications are in the best interest of the public health, safety, and welfare of the residents of the City of Deltona.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF DELTONA, FLORIDA, as follows:

Section 1. Recitals Adopted. The foregoing "Whereas" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this ordinance upon adoption hereof.

Section 2. Amendment to the Code of Ordinances. The City Commission hereby approves and adopts amendments to Article I, "In General," Article II, "Solid Waste," Article III, "Stormwater Utility," and Article IV, "Street Lighting," of Chapter 54, "Special Assessments," as set forth in "Exhibit A" attached hereto.

Section 3. Conflicts. Any and all Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

Section 4. Severability. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect any other provision or application of this ordinance which can be given effect without the invalid provision or application.

Section 5. Codification. The provisions of this Ordinance shall be codified as and be made part of the Code of Ordinances of the City of Deltona. The sections of this Ordinance may be renumbered to accomplish such intention.

Section 6. Effective Date. This Ordinance shall take effect immediately upon its final adoption by the City Commission.

**PASSED AND ADOPTED BY THE CITY COMMISSION OF THE CITY OF
DELTONA, FLORIDA THIS _____ DAY OF _____, 2025.**

First Reading: _____

Advertised: _____

Second Reading: _____

BY: _____

Santiago Avila, Jr., MAYOR

ATTEST:

Joyce Raftery, CMC, MMC, CITY CLERK

City of Deltona, Florida
Ordinance No. 17-2025
Page 3 of 3

Approved as to form and legality
for use and reliance of the City of
Deltona, Florida

TG Law, PLLC, CITY ATTORNEY

Name	Yes	No
Avila-Vazquez		
Colwell		
Heriot		
Howington		
Lulli		
Santiago		
Avila		

Chapter 54 SPECIAL ASSESSMENTS¹

ARTICLE I. IN GENERAL

DIVISION 1. INTRODUCTION

Sec. 54-1. Definitions.

As used in this article, the following words and terms shall have the following meanings, unless the context clearly otherwise requires:

"Annual rate resolution" means the resolution described in sections 54-16 and 54-25 hereof, approving an assessment roll for a specific fiscal year.

"Assessed Property" or "Benefitted Property" means all parcels of land included on the assessment roll that receive a special benefit from the delivery of the service, facility or program or provision of a local improvement identified in the initial assessment resolution.

"Assessment" means a special assessment imposed by the city pursuant to this ordinance to fund the capital cost or project cost, if obligations are issued, of local improvements or the service cost of services that provide a special benefit to property as a consequence of a logical relationship to the value, use, or characteristics of property identified in an initial assessment resolution. The term "assessment" shall include capital assessments and service assessments.

"Assessment area" means any of the areas created by resolution of the city commission pursuant to section 54-4 hereof, that specially benefit from a local improvement or service, facility, or program.

"Assessment roll" means the special assessment roll relating to an assessment approved by a final assessment resolution pursuant to section 54-14 or section 54-23 hereof or an annual rate resolution pursuant to section 54-16 or section 54-25 hereof.

"Assessment unit" means the unit or criteria utilized to determine the assessment for each parcel of property, as set forth in the initial assessment resolution. "Assessment units" may include, by way of example only and not limitation, one or a combination of the following: front footage, platted lots or parcels of record, vested lots, land area, improvement area, equivalent residential connections, permitted land use, trip generation rates, rights to future trip generation capacity under applicable concurrency management regulations, property value or any other physical characteristic or reasonably expected use of the property that has a logical relationship to the local improvement or service to be funded from proceeds of the assessment.

¹ Cross reference(s)—Taxation, ch. 62.

EXHIBIT "A"

"Building" means any structure, whether temporary or permanent, built for support, shelter or enclosure of persons, chattel or property of any kind. This term shall include mobile homes or any vehicles serving in any way the function of a building.

"Building permit" means an official document or certificate issued by the city, under the authority of ordinance or law, authorizing the construction or siting of any building within the city. The term "building permit" shall also include set up or tie down permits for those structures or buildings, such as a mobile home, that do not require a building permit in order to be constructed.

"Capital assessment" means a special assessment imposed by the city pursuant to this ordinance to fund the capital cost or project cost, if obligations are issued, of local improvements that provide a special benefit to property as a consequence of a logical relationship to the value, use, or characteristics of property identified in an initial assessment resolution.

"Capital cost" means all or any portion of the expenses that are properly attributable to the acquisition, design, construction, installation, reconstruction, renewal or replacement (including demolition, environmental mitigation and relocation) of local improvements and imposition of the related assessments under generally accepted accounting principles and including reimbursement to the city for any funds advanced for capital cost and interest on any interfund or intrafund loan for such purposes.

"City" means the City of Deltona, Florida.

"City commission" means the governing body of the City of Deltona, Florida.

"City manager" means the chief administrative officer of the city, or such person's designee.

"County" means Volusia County, Florida.

"Final assessment resolution" means the resolution described in sections 54-14 and 54-23 hereof which shall confirm, modify, or repeal the initial assessment resolution and which shall be the final proceeding for the imposition of an assessment.

"Fiscal year" means that period commencing October 1st of each year and continuing through the next succeeding September 30th, or such other period as may be prescribed by law as the fiscal year for the city.

"Government property" means property owned by the United States of America or any agency thereof, the State of Florida or any agency thereof, a county, a special district or a municipal corporation.

"Initial assessment resolution" means the resolution described in sections 54-10 and 54-19 hereof which shall be the initial proceeding for the identification of the service, facility, program, or local improvement for which an assessment is to be made and for the imposition of an assessment.

EXHIBIT "A"

"Local improvement" means a capital improvement constructed or installed by the city for the special benefit of a neighborhood or other assessment area.

"Maximum assessment rate" means the maximum rate of assessment established by the final assessment resolution for the service, facility, program, or local improvement identified in the initial assessment resolution.

"Obligations" means bonds or other evidence of indebtedness including but not limited to, notes, commercial paper, capital leases, reimbursable advances by the city, or any other obligation issued or incurred to finance any portion of the project cost of local improvements and secured, in whole or in part, by proceeds of the assessments.

"Ordinance" means this master capital project and service assessment ordinance, as it may be amended from time-to-time.

"Owner" shall mean the person reflected as the owner of assessed property on the tax roll.

"Person" means any individual, partnership, firm, organization, corporation, association, or any other legal entity, whether singular or plural, masculine or feminine, as the context may require.

"Pledged revenue" means, as to any series of obligations, (a) the proceeds of such obligations, including investment earnings, (b) proceeds of the assessments pledged to secure the payment of such obligations, and (c) any other legally available non-ad valorem revenue pledged, at the city commission's sole option, to secure the payment of such obligations, as specified by the ordinance or resolution authorizing such obligations.

"Preliminary rate resolution" means the resolution described in section 54-16 hereof initiating the annual process for updating the annual assessment roll and directing the reimposition of service assessments pursuant to an annual rate resolution.

"Project cost" means (a) the capital cost of a local improvement, (b) the transaction cost associated with the obligations which financed the local improvement, (c) interest accruing on such obligations for such period of time as the city commission deems appropriate, (d) the debt service reserve fund or account, if any, established for the obligations which financed the local improvement, and (e) any other costs or expenses related thereto.

"Property appraiser" means the Property Appraiser of Volusia County.

"Service assessment" means a special assessment imposed by the city pursuant to this ordinance to fund the service cost of services that provide a special benefit to property as a consequence of a logical relationship to the value, use, or characteristics of property identified in an initial assessment resolution.

"Service cost" means the amount necessary in any fiscal year to fund the provision of a defined service, facility, or program which provides a special benefit

EXHIBIT "A"

to assessed property, and can include, but not be limited to: (a) the cost of physical construction, reconstruction or completion of any required facility or improvement; (b) the costs incurred in any required acquisition or purchase; (c) the cost of all labor, materials, machinery, and equipment; (d) the cost of fuel, parts, supplies, maintenance, repairs, and utilities; (e) the cost of computer services, data processing, and communications; (f) the cost of all lands and interest therein, leases, property rights, easements, and franchises of any nature whatsoever; (g) the cost of any indemnity or surety bonds and premiums for insurance; (h) the cost of salaries, volunteer pay, workers' compensation insurance, or other employment benefits; (i) the cost of uniforms, training, travel, and per diem; (j) the cost of construction plans and specifications, surveys and estimates of costs; (k) the cost of engineering, financial, legal, and other professional services; (l) the costs of compliance with any contracts or agreements entered into by the city relating to the provision of said services; (m) all costs associated with the structure, implementation, collection, and enforcement of the assessments, including any service charges of the clerk, tax collector, or property appraiser, and delinquent amounts from prior impositions, and amounts necessary to off-set discounts received for early payment of assessments pursuant to the Uniform Assessment Collection Act or for early payment of assessments collected pursuant to section 54-27 herein; (n) all other costs and expenses necessary or incidental to the acquisition, provision, or construction of the service, facility, or program to be funded by the assessment, and such other expenses as may be necessary or incidental to any related financing authorized by the city commission by subsequent resolution; (o) an amount for contingencies and anticipated delinquencies and uncollectible assessments; and (p) reimbursement to the city or any other person for any moneys advanced for any costs incurred by the city or such person in connection with any of the foregoing items of service cost.

"Tax collector" means the Tax Collector of Volusia County.

"Tax roll" means the real property ad valorem tax assessment roll maintained by the property appraiser for the purpose of the levy and collection of ad valorem taxes.

"Transaction cost" means the costs, fees and expenses incurred by the city in connection with the issuance and sale of any series of obligations, including but not limited to (a) rating agency and other financing fees; (b) the fees and disbursements of bond counsel; (c) the underwriters' discount; (d) the fees and disbursements of the city's financial advisor; (e) the costs of preparing and printing the obligations, the preliminary official statement, the final official statement, and all other documentation supporting issuance of the obligations; (f) the fees payable in respect of any municipal bond insurance policy; (g) administrative, development, credit review, and all other fees associated with any pooled commercial paper or similar interim financing program; and (h) any other costs of a similar nature incurred in connection with issuance of such obligations.

EXHIBIT "A"

"Uniform Assessment Collection Act" means F. S. §§ 197.3632 and 197.3635, as amended from time-to-time, or any successor statutes authorizing the collection of non-ad valorem assessments on the same bill as ad valorem taxes, and any applicable regulations promulgated thereunder.

"Variable rate obligations" means as provided in F.S. §§ 215.84, the interest rate on bonds bearing a floating or variable rate of interest shall be calculated on the date of the initial sale and shall not exceed the limitation provided by the statute.

(Ord. No. 23-2008, § 2, 7-7-2008)

Sec. 54-2. Interpretation.

Unless the context indicates otherwise, words importing the singular number include the plural number, and vice versa; the terms "hereof," "hereby," "herein," "hereto," "hereunder" and similar terms refer to this ordinance; and the term "hereafter" means after, and the term "heretofore" means before, the effective date of this ordinance. Words of any gender include the correlative words of the other genders, unless the sense indicates otherwise.

(Ord. No. 23-2008, § 2, 7-7-2008)

Sec. 54-3. Findings.

It is hereby ascertained, determined, and declared that:

- (a) Pursuant to Article VIII, Section 2(b), Florida Constitution, and F. S. §§ 166.021 and 166.041, the city has all powers of local self-government to perform municipal functions and to render municipal services in a manner not inconsistent with law and such power may be exercised by the enactment of city ordinances.
- (b) The assessments to be imposed pursuant to this ordinance shall constitute non-ad valorem assessments within the meaning and intent of the Uniform Assessment Collection Act.
- (c) The assessments to be imposed pursuant to this ordinance are imposed by the city commission, not the county, property appraiser or tax collector. The duties of the property appraiser and tax collector under the Uniform Assessment Collection Act are ministerial.
- (d) The purpose of this ordinance is to: (i) provide procedures and standards for the imposition of assessments within the city by resolution under the general home rule powers of a municipality to impose special assessments, and (ii) authorize a procedure for the funding of public services, facilities, programs, or local improvements providing special benefit to subsequently identified property within the city.

(Ord. No. 23-2008, § 2, 7-7-2008)

DIVISION 2. GENERAL PROVISIONS

Sec. 54-4. Creation of assessment areas.

The city commission is hereby authorized to create assessment areas in accordance with the procedures set forth herein to include property located within the incorporated area of the city that is specially benefitted by the services, facilities, programs, or local improvements proposed for funding from the proceeds of assessments to be imposed therein. Either the initial assessment resolution proposing each assessment area or the final assessment resolution creating each assessment area shall include brief descriptions of the proposed services, facilities, programs, or local improvements, a description of the property to be included within the assessment area, and specific legislative findings that recognize the special benefit to be provided by each proposed service, facility, program, or local improvements to property within the assessment area.

(Ord. No. 23-2008, § 2, 7-7-2008)

Sec. 54-5. Revisions to assessments.

If any assessment made under the provisions of this ordinance is either in whole or in part annulled, vacated, or set aside by the judgment of any court of competent jurisdiction, or if the city commission is satisfied that any such assessment is so irregular or defective that the same cannot be enforced or collected, or if the city commission has omitted to include any property on the assessment roll which property should have been so included, the city commission may take all necessary steps to impose a new assessment against any property benefitted by the service costs, capital costs or project costs following as nearly as may be practicable, the provisions of this ordinance and in case such second assessment is annulled, vacated, or set aside, the city commission may obtain and impose other assessments until a valid assessment is imposed.

(Ord. No. 23-2008, § 2, 7-7-2008)

Sec. 54-6. Procedural irregularities.

Any informality or irregularity in the proceedings in connection with the levy of any assessment under the provisions of this ordinance shall not affect the validity of the same after the approval thereof, and any assessment as finally approved shall be competent and sufficient evidence that such assessment was duly levied, that the assessment was duly made and adopted, and that all other proceedings adequate to such assessment were duly had, taken, and performed as required by this ordinance; and no variance from the directions hereunder shall be held material unless it be clearly shown that the party objecting was materially injured thereby. Notwithstanding the provisions of this section, any party objecting to an assessment imposed pursuant to this ordinance must file an objection with a court of competent jurisdiction within the time periods prescribed herein.

EXHIBIT "A"

(Ord. No. 23-2008, § 2, 7-7-2008)

Sec. 54-7. Correction of errors and omissions.

- (a) No act of error or omission on the part of the property appraiser, tax collector, city manager, city commission, their deputies, employees, or designees, shall operate to release or discharge any obligation for payment of an assessment imposed by the city commission under the provision of this ordinance.
- (b) When it shall appear that any assessment should have been imposed under this ordinance against a lot or parcel of property specially benefited by the provision of a service, facility, program, or local improvement, but such property was omitted from the assessment roll, the city commission may, upon provision of appropriate notice as set forth in this Article, impose the applicable assessment for the fiscal year in which such error is discovered, in addition to the applicable assessment due for the prior two fiscal years. Such total assessment shall become delinquent if not fully paid upon the expiration of 60 days from the date of the adoption of said resolution. The assessment so imposed shall constitute a lien against such property equal in rank and dignity with the liens of all state, county, district, or municipal taxes and special assessments, and superior in rank and dignity to all other prior liens, mortgages, titles and claims in and to or against the real property involved and may be collected as provided in Division 5 hereof.
- (c) The city manager shall have the authority at any time, upon his or her own initiative or in response to a timely filed petition from the owner of any assessed property, to correct any error in applying the assessment apportionment method to any particular property not otherwise requiring the provision of notice pursuant to the Uniform Assessment Collection Act. Any such correction that reduces an assessment shall be considered valid ab initio and shall in no way affect the enforcement of the assessment imposed under the provisions of this ordinance. Any such correction which increases an assessment or imposes an assessment on omitted property shall first require notice to the affected owner in the manner described in sections 54-13 and 54-22 hereof, as applicable, providing the date, time and place that the city commission will consider confirming the correction and offering the owner an opportunity to be heard. All requests from affected property owners for any such changes, modifications or corrections shall be referred to, and processed by, the city manager and not, the property appraiser or tax collector.
- (d) After the assessment roll has been delivered to the tax collector in accordance with the Uniform Assessment Collection Act, any changes, modifications, or corrections thereto shall be made in accordance with the procedures applicable to correcting errors and insolvencies on the tax roll upon timely written request and direction of the city manager.

(Ord. No. 23-2008, § 2, 7-7-2008)

EXHIBIT "A"

Sec. 54-8. Lien of assessments.

Upon the adoption of the assessment roll, all assessments shall constitute a lien against such property equal in rank and dignity with the liens of all state, county, district, or municipal taxes and special assessments. Except as otherwise provided by law, such lien shall be superior in dignity to all other prior liens, mortgages, titles, and claims, until paid. The lien for an assessment shall be deemed perfected upon adoption by the city commission of the final assessment resolution or the annual rate resolution, whichever is applicable. The lien for an assessment collected under the Uniform Assessment Collection Act shall attach to the property as provided by law. The lien for an assessment collected under the alternative method of collection provided in section 54-27 shall be deemed perfected upon adoption by the city commission of the final assessment resolution or the annual rate resolution, whichever is applicable, and shall attach to the property on such date of adoption.

(Ord. No. 23-2008, § 2, 7-7-2008)

DIVISION 3. SERVICE ASSESSMENTS

Sec. 54-9. General authority.

- (a) The city commission is hereby authorized to impose an annual service assessment to fund all or any portion of the service cost on benefitted property at a rate of assessment based on the special benefit accruing to such property from the city's provision of the subsequently identified service, facility, or program. The amount of the service assessment that is imposed each fiscal year against each parcel of assessed property shall be determined pursuant to an apportionment methodology based upon a classification of property designed to provide a fair and reasonable apportionment of the service cost among properties on a basis reasonably related to the special benefit provided by the service, facility, or program funded with assessment proceeds. ~~Nothing contained in this ordinance shall be construed to require the imposition of assessments against Government Property.~~
- (b) All service assessments shall be imposed in conformity with the procedures set forth in this Division 3.

(Ord. No. 23-2008, § 2, 7-7-2008)

Sec. 54-10. Initial proceedings.

The initial proceeding for the imposition of a service assessment shall be the city commission's adoption of an initial assessment resolution (a) describing the property to be located within any proposed assessment area; (b) containing a brief and general description of the services, facilities, or programs to be provided; (c) determining the service cost to be assessed; (d) describing the method of apportioning the service cost and the computation of the assessments for specific properties; (e) establishing an estimated assessment rate for the upcoming fiscal year; (f) establishing a maximum

EXHIBIT "A"

assessment rate, if desired by the city commission; (g) authorizing the date, time, and place of a public hearing to consider the adoption of the final assessment resolution for the upcoming fiscal year; and (h) directing the city manager to (i) prepare the initial assessment roll, as required by section 54-11 hereof, (ii) publish the notice required by section 54-12 hereof, and (iii) mail the notice required by sections 54-13 hereof.

(Ord. No. 23-2008, § 2, 7-7-2008)

Sec. 54-11. Service assessment roll.

- (a) The city manager shall prepare, or direct the preparation of, the initial assessment roll for the service assessments, which shall contain the following:
- (1) A summary description of all assessed property conforming to the description contained on the tax roll.
 - (2) The name of the owner of the assessed property.
 - (3) The amount of the service assessment to be imposed against each assessed property.
- (b) Copies of the initial assessment resolution and the preliminary assessment roll shall be available in the office of the city manager and open to public inspection. The foregoing shall not be construed to require that the assessment roll be in printed form if the amount of the service assessment for each parcel of property can be determined by use of a computer terminal available to the public.

(Ord. No. 23-2008, § 2, 7-7-2008)

Sec. 54-12. Notice by publication.

Upon completion of the initial assessment roll and each year thereafter, the city manager shall publish notice of a public hearing to adopt the final assessment resolution and approve the aforementioned initial assessment roll. The published notice shall conform to the requirements set forth in the Uniform Assessment Collection Act.

(Ord. No. 23-2008, § 2, 7-7-2008)

Sec. 54-13. Notice by mail.

For the initial fiscal year in which a service assessment is imposed by the city commission against assessed property pursuant to the Uniform Assessment Collection Act and in addition to the published notice required by section 54-12, the city manager shall provide notice of the proposed service assessment by first class mail to the owner of each parcel of property subject to a service assessment. Notice shall be deemed mailed upon delivery thereof to the possession of the United States Postal Service. Failure of the owner to receive such notice due to mistake or inadvertence, shall not affect the validity of the assessment roll nor release or discharge any obligation for payment of a service assessment imposed by the city commission pursuant to this

EXHIBIT "A"

ordinance. Notice by mail for fiscal years after the initial fiscal year shall be controlled by section 54-16(c) hereof.

(Ord. No. 23-2008, § 2, 7-7-2008)

Sec. 54-14. Adoption of final assessment resolution.

At the time named in such notice or to such time as an adjournment or continuance may be taken by the city commission, the city commission shall receive any written objections of interested persons and may then, or at any subsequent meeting of the city commission, adopt the final assessment resolution which shall (a) create any assessment area; (b) confirm, modify, or repeal the initial assessment resolution with such amendments, if any, as may be deemed appropriate by the city commission; (c) establish the maximum assessment rate, if desired by the city commission and set the rate of assessment to be imposed in the upcoming fiscal year; (d) approve the initial assessment roll, with such amendments as it deems just and right; and (e) determine the method of collection. All parcels assessed shall derive a special benefit from the service, facility, or program to be provided or constructed and the service assessment shall be fairly and reasonably apportioned among the properties that receive the special benefit. All objections to the final assessment resolution shall be made in writing, and filed with the city manager at or before the time or adjourned time of such hearing. The final assessment resolution shall constitute the annual rate resolution for the initial fiscal year in which assessments are imposed or reimposed hereunder.

(Ord. No. 23-2008, § 2, 7-7-2008)

Sec. 54-15. Effect of final assessment resolution.

The service assessments for the initial fiscal year shall be established upon adoption of the final assessment resolution. The adoption of the final assessment resolution shall be the final adjudication of the issues presented (including, but not limited to, the method of apportionment and assessment, the maximum assessment rate, the initial rate of assessment, the initial assessment roll, and the levy and lien of the service assessments), unless proper steps are initiated in a court of competent jurisdiction to secure relief within 20 days from the date of city commission action on the final assessment resolution. The initial assessment roll, as approved by the final assessment resolution, shall be delivered to the tax collector, or the property appraiser if so directed by the tax collector, or if an alternative method is used to collect the service assessments, such other official as the city commission by resolution shall designate.

(Ord. No. 23-2008, § 2, 7-7-2008)

Sec. 54-16. Adoption of annual rate resolution.

- (a) During its budget adoption process and prior to September 15 of each year, the city commission shall adopt an annual rate resolution for each fiscal year following the initial fiscal year for which a service assessment is imposed hereunder.

EXHIBIT "A"

- (b) The initial proceedings for the adoption of an annual rate resolution for a service assessment imposed to fund the service cost of a service, facility or program shall be the adoption of a preliminary rate resolution in accordance with section 54-10 hereof. The annual rate resolution shall approve the assessment roll for the upcoming fiscal year. The assessment roll shall be prepared in accordance with the method of apportionment set forth in the initial assessment resolution or most recent preliminary rate resolution together with modifications, if any, and as confirmed in the final assessment resolution or most recent annual rate resolution.
- (c) In the event that the uniform method of collection provided for in the Uniform Assessment Collection Act is used and (i) the proposed service assessment for any fiscal year exceeds the maximum assessment rate included in notice previously provided to the owners of assessed property pursuant to sections 54-12 and 54-13 hereof, (ii) the method of apportionment is changed or the purpose for which the service assessment is imposed is substantially changed from that represented by notice previously provided to the owners of assessed property pursuant to sections 54-12 and 54-13 hereof, (iii) assessed property is reclassified in a manner which results in an increased service assessment from that represented by notice previously provided to the owners of assessed property pursuant to sections 54-12 and 54-13 hereof, or (iv) an assessment roll contains assessed property that was not included on the assessment roll approved for the prior fiscal year, notice shall be provided by first class mail to the owner of such assessed property. Such supplemental notice shall substantially conform with the notice requirements set forth in section 54-13 hereof and inform the owner of the date and place for the adoption of the annual rate resolution. The failure of the owner to receive such supplemental notice due to mistake or inadvertence, shall not affect the validity of the assessment roll nor release or discharge any obligation for payment of a service assessment imposed by the city commission pursuant to this ordinance.
- (d) The assessment roll, as approved by the annual rate resolution, shall be delivered to the tax collector, or the property appraiser if so directed by the tax collector, or if an alternative method is used to collect the service assessments, such other official as the city commission by resolution shall designate. If the service assessment against any property shall be sustained, reduced, or abated by the city commission, an adjustment shall be made on the assessment roll.

(Ord. No. 23-2008, § 2, 7-7-2008)

Sec. 54-17. Interim service assessments.

- (a) An interim service assessment may be imposed against all property, for which a building permit is issued, after adoption of the annual rate resolution. The amount of the interim service assessment shall be calculated upon a monthly rate, which shall be one-twelfth of the annual rate for such property computed in accordance with the annual rate resolution for the fiscal year for which the interim service assessment is being imposed. Such monthly rate shall be imposed for each full calendar month remaining in the fiscal year. In addition to the monthly rate, the

EXHIBIT "A"

interim service assessment may also include an estimate of the subsequent fiscal year's service assessment. No building permit shall be issued until full payment of the interim service assessment is received by the city. Issuance of the building permit without the payment in full of the interim service assessment shall not relieve the owner of such property of the obligation of full payment. Any interim service assessment not collected prior to the issuance of the building permit may be collected pursuant to the Uniform Assessment Collection Act as provided in section 54-26 of this ordinance or by any other method authorized by law. Any interim service assessment shall be deemed due and payable on the date the building permit was issued and shall constitute a lien against such property as of that date. Said lien shall be equal in rank and dignity with the liens of all state, county, district or municipal taxes and special assessments, and superior in rank and dignity to all other liens, encumbrances, titles and claims in and to or against the real property involved and shall be deemed perfected upon the issuance of the building permit.

- (b) In the event a building permit expires prior to completion of the building for which it was issued, and the applicant paid the interim service assessment at the time the building permit was issued, the applicant may within 90 days of the expiration of the building permit apply for a refund of the interim service assessment. Failure to timely apply for a refund of the interim service assessment shall waive any right to a refund.
- (c) The application for refund shall be filed with the city and contain the following:
 - (1) The name and address of the applicant;
 - (2) The location of the property and the tax parcel identification number for the property which was the subject of the building permit;
 - (3) The date the interim service assessment was paid;
 - (4) A copy of the receipt of payment for the interim service assessment; and
 - (5) The date the building permit was issued and the date of expiration.
- (d) After verifying that the building permit has expired and that the building has not been completed, the city shall refund the interim service assessment paid for such building.
- (e) A building permit which is subsequently issued for a building on the same property which was subject of a refund shall pay the interim service assessment as required by this section 54-17.

(Ord. No. 23-2008, § 2, 7-7-2008)

DIVISION 4. CAPITAL ASSESSMENTS

Sec. 54-18. General authority.

- (a) The city commission is hereby authorized to impose capital assessments against property located within an assessment area to fund the capital cost or project cost,

EXHIBIT "A"

if obligations are issued, of local improvements. The capital assessment shall be computed in a manner that fairly and reasonably apportions the capital cost or project cost, if obligations are issued, among the parcels of property within the assessment area based upon objectively determinable assessment units and reasonably related to the special benefit provided by the local improvement. ~~Nothing contained in this ordinance shall be construed to require the imposition of capital assessments against government property.~~

- (b) All capital assessments shall be imposed in conformity with the procedures set forth in this Division 4.

(Ord. No. 23-2008, § 2, 7-7-2008)

Sec. 54-19. Initial proceedings.

The initial proceeding for the imposition of a capital assessment shall be the city commission's adoption of an initial assessment resolution (a) describing the property to be located within the proposed assessment area; (b) containing a brief and general description of the local improvements to be provided; (c) determining the capital cost or project cost to be assessed for local improvements; (d) describing the method of apportioning the capital cost or project cost and the computation of the capital assessments for specific properties; (e) establishing an estimated assessment rate for the upcoming fiscal year; (f) describe the provisions, if any, for acceleration and prepayment of the capital assessment; (g) describe the provisions, if any, for reallocating the capital assessment upon future subdivision; (h) establishing a maximum assessment rate, if desired by the city commission; (i) authorizing the date, time, and place of a public hearing to consider the adoption of the final assessment resolution for the upcoming fiscal year; and (j) directing the city manager to (i) prepare the initial assessment roll, as required by section 54-20 hereof, (ii) publish the notice required by section 54-21 hereof, and (iii) mail the notice required by section 54-22 hereof.

(Ord. No. 23-2008, § 2, 7-7-2008)

Sec. 54-20. Capital assessment roll.

- (a) The city manager shall prepare, or direct the preparation of, the initial assessment roll for capital assessments, which shall contain the following:
- (1) A summary description of all assessed property conforming to the description contained on the tax roll.
 - (2) The name of the owner of the assessed property.
 - (3) The number of assessment units attributable to each parcel.
 - (4) The amount of the capital assessment to be imposed against each assessed property.
- (b) Copies of the initial assessment resolution and the preliminary assessment roll shall be available in the office of the city manager and open to public inspection. The

EXHIBIT "A"

foregoing shall not be construed to require that the assessment roll be in printed form if the amount of the capital assessment for each parcel of property can be determined by use of a computer terminal available to the public.

(Ord. No. 23-2008, § 2, 7-7-2008)

Sec. 54-21. Notice by publication.

Upon completion of the initial assessment roll and each year thereafter, the city manager shall publish notice of a public hearing to adopt the final assessment resolution and approve the aforementioned initial assessment roll. The published notice shall conform to the requirements set forth in the Uniform Assessment Collection Act.

(Ord. No. 23-2008, § 2, 7-7-2008)

Sec. 54-22. Notice by mail.

For the initial fiscal year in which a capital assessment is imposed by the city commission against assessed property pursuant to the Uniform Assessment Collection Act and in addition to the published notice required by section 54-21, the city manager shall provide notice of the proposed capital assessment by first class mail to the owner of each parcel of property subject to a capital assessment. Notice shall be deemed mailed upon delivery thereof to the possession of the United States Postal Service. Failure of the owner to receive such notice due to mistake or inadvertence, shall not affect the validity of the assessment roll nor release or discharge any obligation for payment of a capital assessment imposed by the city commission pursuant to this ordinance. Notice by mail for fiscal years after the initial fiscal year shall be controlled by section 54-25 hereof.

(Ord. No. 23-2008, § 2, 7-7-2008)

Sec. 54-23. Adoption of final assessment resolution.

At the time named in such notice or to such time as an adjournment or continuance may be taken by the city commission, the city commission shall receive any written objections of interested persons and may then, or at any subsequent meeting of the city commission, adopt the final assessment resolution which shall (a) create any assessment area; (b) confirm, modify, or repeal the initial assessment resolution with such amendments, if any, as may be deemed appropriate by the city commission; (c) establish the maximum amount of the capital assessment for each assessment unit and levy the rate of assessment for the upcoming fiscal year; (d) approve the initial assessment roll, with such amendments as it deems just and right; and (e) determine the method of collection. All parcels assessed shall derive a special benefit from the local improvement to be provided or constructed and the capital assessment shall be fairly and reasonably apportioned among the properties that receive the special benefit. All objections to the final assessment resolution shall be made in writing, and filed with the city manager at or before the time or adjourned time of such hearing. The final

EXHIBIT "A"

assessment resolution shall constitute the annual rate resolution for the initial fiscal year in which assessments are imposed or reimposed hereunder.

(Ord. No. 23-2008, § 2, 7-7-2008)

Sec. 54-24. Effect of final assessment resolution.

The capital assessments for the initial fiscal year shall be established upon adoption of the final assessment resolution. The adoption of the final assessment resolution shall be the final adjudication of the issues presented (including, but not limited to, the method of apportionment and assessment, the initial rate of assessment, the initial assessment roll, and the levy and lien of the capital assessments), unless proper steps are initiated in a court of competent jurisdiction to secure relief within 20 days from the date of city commission action on the final assessment resolution. The initial assessment roll, as approved by the final assessment resolution, shall be delivered to the tax collector, or the property appraiser if so directed by the tax collector, or if an alternative method is used to collect the capital assessments, such other official as the city commission by resolution shall designate.

(Ord. No. 23-2008, § 2, 7-7-2008)

Sec. 54-25. Adoption of annual rate resolution.

- (a) During its budget adoption process and prior to September 15 of each year, the city commission shall adopt an annual rate resolution for each fiscal year in which capital assessments will be imposed to fund the capital cost or project cost of a local improvement. The final assessment resolution shall constitute the annual assessment resolution for the initial fiscal year. The assessment roll shall be prepared in accordance with the initial assessment resolution, as confirmed or amended by the final assessment resolution. Failure to adopt an annual assessment resolution during the budget adoption process for a fiscal year may be cured at any time.
- (b) In the event that the uniform method of collection provided for in the Uniform Assessment Collection Act is used and (i) the proposed capital assessment for any fiscal year exceeds the maximum assessment rate included in notice previously provided to the owners of assessed property pursuant to sections 54-21 and 54-22 hereof, (ii) the method of apportionment is changed or the purpose for which the capital assessment is imposed is substantially changed from that represented by notice previously provided to the owners of assessed property pursuant to sections 54-21 and 54-22 hereof, (iii) assessed property is reclassified in a manner which results in an increased capital assessment from that represented by notice previously provided to the owners of assessed property pursuant to sections 54-21 and 54-22 hereof, or (iv) an assessment roll contains assessed property that was not included on the assessment roll approved for the prior fiscal year, notice shall be provided by first class mail to the owner of such assessed property. Such supplemental notice shall substantially conform with the notice requirements set

EXHIBIT "A"

forth in section 54-22 hereof and inform the owner of the date and place for the adoption of the annual rate resolution. The failure of the owner to receive such supplemental notice due to mistake or inadvertence, shall not affect the validity of the assessment roll nor release or discharge any obligation for payment of a capital assessment imposed by the city commission pursuant to this ordinance.

- (c) The assessment roll, as approved by the annual rate resolution, shall be delivered to the tax collector, or the property appraiser if so directed by the tax collector, or if an alternative method is used to collect the capital assessments, such other official as the city commission by resolution shall designate. If the capital assessment against any property shall be sustained, reduced, or abated by the city commission, an adjustment shall be made on the assessment roll.

(Ord. No. 23-2008, § 2, 7-7-2008)

DIVISION 5. COLLECTION AND USE OF ASSESSMENTS

Sec. 54-26. Method of collection.

- (a) Unless otherwise directed by the city commission, the assessments shall be collected pursuant to the Uniform Assessment Collection Act, and the city shall comply with all applicable provisions of the Uniform Assessment Collection Act. Any hearing or notice required by this ordinance may be combined with any other hearing or notice required by the Uniform Assessment Collection Act.
- (b) The amount of an assessment to be collected using the Uniform Assessment Collection Act for any specific parcel of benefitted property may include an amount equivalent to the payment delinquency, delinquency fees and recording costs for a prior year's assessment for a comparable service, facility, program, or local improvement provided, (i) the collection method used in connection with the prior year's assessment did not employ the use of the Uniform Assessment Collection Act, (ii) notice is provided to the owner, and (iii) any lien on the affected parcel for the prior year's assessment is supplanted and transferred to such assessment upon certification of a non-ad valorem roll to the tax collector by the city.

(Ord. No. 23-2008, § 2, 7-7-2008)

Sec. 54-27. Alternative method of collection.

In lieu of utilizing the Uniform Assessment Collection Act, the city may elect to collect the assessments by any other method which is authorized by law.

(Ord. No. 23-2008, § 2, 7-7-2008)

Sec. 54-28. Government property.

In lieu of using the Uniform Assessment Collection Act to collect assessments from government property, the city may elect to use any other method authorized by law or provided by this section as follows:

EXHIBIT "A"

- (a) The city shall provide assessment bills by first class mail to the owner of each affected parcel of government property. The bill or accompanying explanatory material shall include (i) a brief explanation of the assessment, (ii) a description of the unit of measurement used to determine the amount of the assessment, (iii) the number of units contained within the parcel, (iv) the total amount of the parcel's assessment for the appropriate period, (v) the location at which payment will be accepted, and (vi) the date on which the assessment is due.
- (b) Assessments imposed against government property shall be due on the same date as all other assessments and, if applicable, shall be subject to the same discounts for early payment.
- (c) An assessment shall become delinquent if it is not paid within 30 days from the date any installment is due. The city shall notify the owner of any government property that is delinquent in payment of its assessment within 60 days from the date such assessment was due. Such notice shall state that the city may will at the discretion of the city manager initiate a mandamus or other appropriate judicial action to compel payment.
- (d) All costs, fees and expenses, including reasonable attorney fees and title search expenses, related to any mandamus or other action as described herein shall be included in any judgment or decree rendered therein. All delinquent owners of government property against which a mandamus or other appropriate action is filed shall be liable for an apportioned amount of reasonable costs and expenses incurred by the city, including reasonable attorney fees, in collection of such delinquent assessments and any other costs incurred by the city as a result of such delinquent assessments and the same shall be collectible as a part of or in addition to, the costs of the action.
- (e) As an alternative to the foregoing, an assessment imposed against government property may be collected on the bill for any utility service provided to such government property. The city commission may contract for such billing services with any utility not owned by the city.

(Ord. No. 23-2008, § 2, 7-7-2008)

DIVISION 6. ISSUANCE OF OBLIGATIONS

Sec. 54-29. General authority.

- (a) Upon adoption of the final assessment resolution imposing capital assessments to fund a local improvement or at any time thereafter, the city commission shall have the power and is hereby authorized to provide by resolution, at one time or from time to time in series, for the issuance of obligations to fund the project cost thereof.
 - (b) If issued, the principal of and interest on each series of obligations shall be payable from pledged revenue. At the option of the city commission, the city may agree, by resolution, to budget and appropriate funds to make up any deficiency in the
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EXHIBIT "A"

reserve account established for the obligations or in the payment of the obligations, from other non-ad valorem revenue sources. The city commission may also provide, by resolution, for a pledge of or lien upon proceeds of such non-ad valorem revenue sources for the benefit of the holders of the obligations. Any such resolution shall determine the nature and extent of any pledge of or lien upon proceeds of such non-ad valorem revenue sources.

(Ord. No. 23-2008, § 2, 7-7-2008)

Sec. 54-30. Terms of the obligations.

If issued, the obligations shall be dated, shall bear interest at such rate or rates, shall mature at such times as may be determined by resolution of the city commission, and may be made redeemable before maturity, at the option of the city, at such price or prices and under such terms and conditions, all as may be fixed by the city commission. Said obligations shall mature not later than 40 years after their issuance. The city commission shall determine by resolution the form of the obligations, the manner of executing such obligations, and shall fix the denominations of such obligations, the place or places of payment of the principal and interest, which may be at any bank or trust company within or outside of the State of Florida, and such other terms and provisions of the obligations as it deems appropriate. The obligations may be sold at public or private sale for such price or prices as the city commission shall determine by resolution. The obligations may be delivered to any contractor to pay for construction of the local improvements or may be sold in such manner and for such price as the city commission may determine by resolution to be for the best interests of the city.

(Ord. No. 23-2008, § 2, 7-7-2008)

Sec. 54-31. Variable rate obligations.

At the option of the city commission, obligations may bear interest at a variable rate.

(Ord. No. 23-2008, § 2, 7-7-2008)

Sec. 54-32. Temporary obligations.

Prior to the preparation of definitive obligations of any series, the city commission may, under like restrictions, issue interim receipts, interim certificates, or temporary obligations, exchangeable for definitive obligations when such obligations have been executed and are available for delivery. The city commission may also provide for the replacement of any obligations which shall become mutilated, destroyed or lost. Obligations may be issued without any other proceedings or the happening of any other conditions or things than those proceedings, conditions or things which are specifically required by this ordinance.

(Ord. No. 23-2008, § 2, 7-7-2008)

Sec. 54-33. Anticipation notes.

In anticipation of the sale of obligations, the city commission may, by resolution, issue notes and may renew the same from time to time. Such notes may be paid from the proceeds of the obligations, the proceeds of the capital assessments, the proceeds of the notes and such other legally available moneys as the city commission deems appropriate by resolution. Said notes shall mature within five years of their issuance and shall bear interest at a rate not exceeding the maximum rate provided by law. The city commission may issue obligations or renewal notes to repay the notes. The notes shall be issued in the same manner as the obligations.

(Ord. No. 23-2008, § 2, 7-7-2008)

Sec. 54-34. Taxing power not pledged.

Obligations issued under the provisions of this ordinance shall not be deemed to constitute a general obligation or pledge of the full faith and credit of the city within the meaning of the Constitution of the State of Florida, but such obligations shall be payable only from pledged revenue in the manner provided herein and by the resolution authorizing the obligations. The issuance of obligations under the provisions of this ordinance shall not directly or indirectly obligate the city to levy or to pledge any form of ad valorem taxation whatever therefore. No holder of any such obligations shall ever have the right to compel any exercise of the ad valorem taxing power on the part of the city to pay any such obligations or the interest thereon or to enforce payment of such obligations or the interest thereon against any property of the city, nor shall such obligations constitute a charge, lien or encumbrance, legal or equitable, upon any property of the city, except the pledged revenue.

(Ord. No. 23-2008, § 2, 7-7-2008)

Sec. 54-35. Trust funds.

The pledged revenue received pursuant to the authority of this ordinance shall be deemed to be trust funds, to be held and applied solely as provided in this ordinance and in the resolution authorizing issuance of the obligations. Such pledged revenue may be invested by the city, or its designee, in the manner provided by the resolution authorizing issuance of the obligations. The pledged revenue upon receipt thereof by the city shall be subject to the lien and pledge of the holders of any obligations or any entity other than the city providing credit enhancement on the obligations.

(Ord. No. 23-2008, § 2, 7-7-2008)

Sec. 54-36. Remedies of holders.

Any holder of obligations, except to the extent the rights herein given may be restricted by the resolution authorizing issuance of the obligations, may, whether at law or in equity, by suit, action, mandamus or other proceedings, protect and enforce any

EXHIBIT "A"

and all rights under the laws of the State of Florida or granted hereunder or under such resolution, and may enforce and compel the performance of all duties required by this part, or by such resolution, to be performed by the city.

(Ord. No. 23-2008, § 2, 7-7-2008)

Sec. 54-37. Refunding obligations.

The city may, by resolution of the city commission, issue obligations to refund any obligations issued pursuant to this ordinance, or any other obligations of the city theretofore issued to finance the project cost of a local improvement and provide for the rights of the holders hereof. Such refunding obligations may be issued in an amount sufficient to provide for the payment of the principal of, redemption premium, if any, and interest on the outstanding obligations to be refunded. If the issuance of such refunding obligations results in an annual assessment that exceeds the estimated maximum annual capital assessments set forth in the notice provided pursuant to section 54-22 hereof, the city commission shall provide notice to the affected property owners and conduct a public hearing in the manner required by Division 4 of this ordinance.

(Ord. No. 23-2008, § 2, 7-7-2008)

DIVISION 7. MISCELLANEOUS PROVISIONS

Sec. 54-38. Applicability.

This ordinance and the city commission's authority to impose assessments pursuant hereto shall be applicable throughout the city.

Sec. 54-39. Alternative method.

- (a) This ordinance shall be deemed to provide an additional and alternative method for the doing of the things authorized hereby and shall be regarded as supplemental and additional to powers conferred by other laws, and shall not be regarded as in derogation of any powers now existing or which may hereafter come into existence. This ordinance, being necessary for the welfare of the inhabitants of the city, shall be liberally construed to effect the purposes hereof.
- (b) Nothing herein shall preclude the city commission from directing and authorizing, by resolution, the combination with each other of (i) any supplemental or additional notice deemed proper, necessary, or convenient by the city, (ii) any notice required by this ordinance, or (iii) any notice required by law, including the Uniform Assessment Collection Act.

(Ord. No. 23-2008, § 2, 7-7-2008)

EXHIBIT "A"

Sec. 54-40. Severability.

The provisions of this ordinance are severable; and if any section, subsection, sentence, clause or provision is held invalid by any court of competent jurisdiction, the remaining provisions of this ordinance shall not be affected thereby.

(Ord. No. 23-2008, § 2, 7-7-2008)

Sec. 54-41. Effective date.

This ordinance shall take effect immediately upon its passage and adoption on the second and final reading.

ARTICLE II. SOLID WASTE²

DIVISION 1. GENERALLY

Sec. 54-42. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

~~*Annual rate resolution means the resolution described in section 54-63, establishing the rate at which a solid waste special assessment for a specific fiscal year will be computed. The final assessment resolution shall constitute the annual rate resolution for the initial fiscal year in which a solid waste special assessment is imposed or reimposed.*~~

~~*Assessed property means all parcels of land included on the assessment roll that receive a special benefit from the delivery of the solid waste services, programs or facilities identified in the initial assessment resolution or the preliminary rate resolution.*~~

~~*Assessment roll means the special assessment roll relating to a solid waste special assessment approved by a final assessment resolution pursuant to section 54-61 or an annual rate resolution pursuant to section 54-63.*~~

~~*Building means any structure, whether temporary or permanent, built for support, shelter or enclosure of persons, chattel or property of any kind. This term shall include mobile homes or any vehicles serving in any way the function of a building.*~~

~~*Certificate of occupancy means the written certification issued by the city that a building is ready for occupancy for its intended use. For the purposes of this article, a*~~

² Editor's note(s)—Ord. No. 23-2008, § 3, adopted July 7, 2008, renumbered Art. II, Div. 1, §§ 54-31—54-36 as 54-42—54-47.

Cross reference(s)—Solid waste, ch. 50.

EXHIBIT "A"

setup permit or its equivalent issued for a mobile home shall be considered a certificate of occupancy.

Final assessment resolution means the resolution described in section 54-61, which shall confirm, modify or repeal the initial assessment resolution and which shall be the final proceeding for the initial imposition of solid waste special assessments.

Fiscal year means that period commencing October 1 of each year and continuing through the next succeeding September 30, or such other period as may be prescribed by law as the fiscal year for the city.

Government property means property owned by the United States of America or any of its agencies, a sovereign state or nation, the state or any of its agencies, a county, a special district or a municipal corporation.

Initial assessment resolution means the resolution described in section 54-57, which shall be the initial proceeding for the identification of the solid waste assessed cost for which an assessment is to be made and for the imposition of a solid waste assessment.

Owner means the person reflected as the owner of assessed property on the tax roll.

Preliminary rate resolution means the resolution described in section 54-63 initiating the annual process for updating the assessment roll and directing the reimposition of solid waste special assessments pursuant to an annual rate resolution.

Property appraiser means the property appraiser of the county.

Solid waste assessed cost means the amount determined by the city commission to be assessed in any fiscal year to fund all or any portion of the cost of the provision of solid waste services, facilities or programs that provide a special benefit to assessed property, and shall include but not be limited to the following components:

- (1) The cost of physical construction, reconstruction or completion of any required facility or improvement;
- (2) The costs incurred in any required acquisition or purchase;
- (3) The cost of all labor, materials, machinery and equipment;
- (4) The cost of fuel, parts, supplies, maintenance, repairs and utilities;
- (5) The cost of computer services, data processing and communications;
- (6) The cost of all lands and interest in land, leases, property rights, easements and franchises of any nature whatsoever;
- (7) The cost of any indemnity or surety bonds and premiums for insurance;
- (8) The cost of salaries, volunteer pay, workers' compensation insurance, or other employment benefits;
- (9) The cost of uniforms, training, travel and per diem;

EXHIBIT "A"

- ~~(10) The cost of construction plans and specifications, surveys and estimates of costs;~~
- ~~(11) The cost of engineering, financial, legal and other professional services;~~
- ~~(12) The costs of compliance with any contracts or agreements entered into by the city to provide solid waste services;~~
- ~~(13) All costs associated with the structure, implementation, collection and enforcement of the solid waste special assessments, including any service charges of the tax collector or property appraiser, and amounts necessary to offset discounts received for early payment of solid waste special assessments pursuant to the Uniform Assessment Collection Act or for early payment of solid waste special assessments collected pursuant to section 54-92;~~
- ~~(14) All other costs and expenses necessary or incidental to the acquisition, provision or construction of solid waste services, facilities or programs, and such other expenses as may be necessary or incidental to any related financing authorized by the city commission by subsequent resolution;~~
- ~~(15) A reasonable amount for contingency and anticipated delinquencies and uncollectible solid waste special assessments; and~~
- ~~(16) Reimbursement to the city or any other person for any moneys advanced for any costs incurred by the city or such person in connection with any of the foregoing components of solid waste assessed cost. If the city also imposes an impact fee upon new growth or development for solid waste related capital improvements, the solid waste assessed cost shall not include costs attributable to capital improvements necessitated by new growth or development.~~

Solid waste special assessment means a special assessment lawfully imposed by the city against assessed property to fund the solid waste assessed cost imposed to fund all or any portion of the cost of the provision of solid waste services, facilities or programs providing a special benefit to property as a consequence of possessing a logical relationship to the value, use or characteristics of property identified in the initial assessment resolution or the preliminary rate resolution.

~~*Tax collector* means the tax collector of the county.~~

~~*Tax roll* means the real property ad valorem tax assessment roll maintained by the property appraiser for the purpose of the levy and collection of ad valorem taxes.~~

~~*Uniform Assessment Collection Act* means F.S. §§ 197.3632 and 197.3635 or any successor statutes authorizing the collection of non-ad-valorem assessments on the same bill as ad valorem taxes, and any applicable regulations promulgated under such statutes.~~

~~(Ord. No. 96-49, § 1.01, 9-9-1996; Ord. No. 23-2008, § 3, 7-7-2008)~~

~~Note(s) — Formerly § 54-31.~~

EXHIBIT "A"

Cross reference(s)—Definitions generally, § 1-2.

Sec. 54-43. General findings.

It is ascertained, determined and declared that:

- ~~(1) Pursuant to Fla. Const., art. VIII, § 2(b), and F.S. §§ 166.021 and 166.041, the city commission has all powers of local self-government necessary to perform municipal functions and render municipal services except when prohibited by law; and such power may be exercised by the enactment of legislation in the form of city ordinances.~~
- ~~(2) The city commission may exercise any governmental, corporate or proprietary power for a municipal purpose except when expressly prohibited by law; and the city commission may legislate on any subject matter on which the state legislature may act, except those subjects described in F.S. § 166.021(3)(a)—(d). The subject matter of F.S. § 166.021(3)(a)—(d), are not relevant to the imposition of assessments related to solid waste services, facilities or programs of the city.~~
- ~~(13) The purpose of this article is to:
 - a. Provide procedures and standards for the imposition of citywide solid waste special assessments under the general home rule powers of the city municipality to impose special assessments; and
 - b. Authorize a procedure for the funding of solid waste services, facilities or programs providing special benefits to property within the city; and
 - c. Legislatively determine the special benefit provided to assessed property from the provision of solid waste services.~~
- ~~(24) The annual solid waste special assessments to be imposed pursuant to this article shall constitute non-ad-valorem assessments within the meaning and intent of the Uniform Assessment Collection Act.~~
- ~~(35) The solid waste special assessment imposed pursuant to this article is imposed by the city alone, not the county board of county commissioners, property appraiser or tax collector. Any activity of the county property appraiser or tax collector under the provisions of this article is deemed shall be construed as ministerial.~~

(Ord. No. 96-49, § 1.03, 9-9-1996; Ord. No. 23-2008, § 3, 7-7-2008)

Note(s)—Formerly § 54-32.

Sec. 54-44. Legislative determinations of special benefit.

It is ascertained and declared that ~~t~~The solid waste services, facilities and programs of the city provide a special benefit to property within the city based upon the following legislative determinations. The city commission finds that:

EXHIBIT "A"

- (1) Pursuant to F.S. § 403.706(1), the city has the general responsibility and authority to provide for the collection and transport of solid waste generated within its incorporated area to appropriate solid waste disposal facilities;
 - (2) Solid waste collection services, disposal services, facilities and programs furnished by the city possess a logical relationship to the use and enjoyment of property by:
 - a. Requiring the use of said services~~solid waste collection services, disposal services, facilities and programs~~ by the owners and occupants of benefitted property within the service area permits to properly, safely, efficient, and cost effectively collection and disposal of solid waste generated on such property;
 - b. Providing well regulated~~better~~ service to property owners and tenants;
 - c. Enhancing the environmentally responsible use and enjoyment of the property; and
 - d. Protecting property values and the health and safety of the owners and occupants of property by providing~~resulting from the uniform delivery and availability of~~ such services, facilities and programs;
 - (3) Garbage and trash previously littered public and private property and public rights-of-way in sections of the incorporated areas of the city;
 - (4) The development and expansion of the city requires the collection and disposal of solid waste;
 - (5) The need for continuing regulation of solid waste collection and disposal practices within the city exists and continues;
 - (6) It is necessary to continue to provide for mandatory solid waste collection and disposal to promote the common interest and the general health, safety and welfare of the residents of the city;
 - (7) ~~The fact that any residential improved real property located within the city which is designed for human occupancy, or which is capable of being occupied, is deemed shall be prima facie evidence that solid waste is or will be being produced or accumulated upon such property and the payment of the solid waste special assessment shall inure to the special benefit of that parcel by providing solid waste collection and disposal services in that the solid waste shall be removed;~~
 - (8) It is necessary to provide for an effective and efficient method of collecting the solid waste special assessment; and
 - (9) In order to provide a fair and equitable method of collection, enable contract collectors to collect more efficiently, reduce overhead costs, and decrease the percentage of uncollectible accounts, it is necessary for the city to undertake a special assessment charge.
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EXHIBIT "A"

(Ord. No. 96-49, § 1.04, 9-9-1996; Ord. No. 23-2008, § 3, 7-7-2008)

Note(s)—Formerly § 54-33.

Sec. 54-45. Applicability.

This article and the city's authority to impose assessments pursuant to this article shall be applicable throughout the city.

(Ord. No. 96-49, § 4.01, 9-9-1996; Ord. No. 23-2008, § 3, 7-7-2008)

Note(s)—Formerly § 54-34.

Sec. 54-46. Alternative method.

- (a) This article shall be deemed to provide an additional and alternative method for the provisions doing of the things authorized by this article and shall be regarded as supplemental and additional to powers conferred by other laws, and shall not be regarded as in-derogating on of any powers now existing or which may hereafter come into existence. This article, being necessary for the welfare of the inhabitants of the city, shall be liberally construed to effect its purposes.
- (b) Nothing in this article shall preclude the city commission from directing and authorizing, by resolution, the combination with each other of:
 - (1) Any supplemental or additional notice deemed proper, necessary or convenient by the city;
 - (2) Any notice required by this article; or
 - (3) Any notice required by law, including the Uniform Assessment Collection Act.
 - (4) Directing any other procedural aspect of the assessment program, unless prohibited by law.

(Ord. No. 96-49, § 4.02, 9-9-1996; Ord. No. 23-2008, § 3, 7-7-2008)

Note(s)—Formerly § 54-46.

Secs. 54-47—54-55. Reserved.

DIVISION 2. ANNUAL ASSESSMENTS

Sec. 54-56. General authority.

- (a) The city commission is authorized to impose an annual solid waste special assessment to fund all or any portion of the solid waste assessed cost upon benefited property at a rate of assessment based on the special benefit accruing to such property from the city's provision of solid waste services, facilities or programs. All solid waste special assessments shall be imposed in conformity with the procedures set forth in this article.

EXHIBIT "A"

- (b) The amount of the solid waste special assessment imposed in a fiscal year against a parcel of assessed property shall be determined pursuant to an apportionment methodology based upon a classification of property designed to provide a fair and reasonable apportionment of the solid waste assessed cost among properties on a basis reasonably related to the special benefit provided by solid waste services, facilities or programs funded with assessment proceeds. ~~Nothing contained in this article shall be construed to require the imposition of solid waste special assessments against government property.~~

(Ord. No. 96-49, § 2.01, 9-9-1996)

~~Sec. 54-57. Initial proceedings.~~

~~The initial proceeding for the imposition of a solid waste special assessment shall be the adoption of an initial assessment resolution by the city commission:~~

- ~~(1) Containing a brief and general description of the solid waste services, facilities or programs to be provided estimating the solid waste assessed cost to be assessed;~~
- ~~(2) Describing the method of apportioning the solid waste assessed cost and the computation of the solid waste special assessment for specific properties;~~
- ~~(3) Providing a summary description of the parcels of property (conforming to the description contained on the tax roll) located within the city that receive a special benefit from the provision of solid waste services, facilities or programs or describing a specific geographic area in which such service, facility or program will be provided;~~
- ~~(4) Establishing an assessment rate for the upcoming fiscal year; and~~
- ~~(5) Directing the city manager to:
 - ~~a. Prepare the initial assessment roll, as required by section 54-58;~~
 - ~~b. Publish the notice required by section 54-59; and~~
 - ~~c. Mail the notice required by section 54-60, using information then available from the tax roll.~~~~

(Ord. No. 96-49, § 2.02, 9-9-1996)

~~Sec. 54-58. Initial assessment roll.~~

- (a) ~~The city manager shall prepare or direct the preparation of the initial assessment roll, which shall contain the following:~~
- ~~(1) A summary description of all assessed property conforming to the description contained on the tax roll.~~
 - ~~(2) The name of the owner of the assessed property.~~

EXHIBIT "A"

- ~~(3) The amount of the solid waste special assessment to be imposed against each such parcel of assessed property.~~
- ~~(b) The initial assessment roll shall be retained by the city manager and shall be open to public inspection. The foregoing shall not be construed to require that the assessment roll be in printed form if the amount of the solid waste special assessment for each parcel of property can be determined by use of a computer terminal available to the public.~~

~~(Ord. No. 96-49, § 2.03, 9-9-1996)~~

~~**Sec. 54-59. Notice by publication.**~~

~~Upon completion of the initial assessment roll, the city manager shall publish or direct the publication of once in a newspaper of general circulation within the city a notice stating that at a meeting of the city commission on a certain day and hour, not earlier than 20 calendar days from such publication, which meeting shall be a regular, adjourned or special meeting, the city commission will hear objections of all interested persons to the final assessment resolution, which shall establish the rate of assessment and approve the initial assessment roll. The published notice shall conform to the requirements set forth in the Uniform Assessment Collection Act. Such notice shall include:~~

- ~~(1) A geographic depiction of the property subject to the solid waste assessment;~~
- ~~(2) A brief and general description of the solid waste services, facilities or programs to be provided;~~
- ~~(3) The rate of assessment;~~
- ~~(4) The procedure for objecting provided in section 54-61;~~
- ~~(5) The method by which the solid waste special assessment will be collected; and~~
- ~~(6) A statement that the initial assessment roll is available for inspection at the office of the city clerk and that all interested persons may ascertain the amount to be assessed against a parcel of assessed property at the office of the city clerk.~~

~~(Ord. No. 96-49, § 2.04, 9-9-1996)~~

~~**Sec. 54-60. Notice by mail.**~~

~~In addition to the published notice required by section 54-59, the city manager shall provide or direct the provision of notice of the proposed solid waste special assessment by first class mail to the owner of each parcel of property (except government property) subject to the solid waste special assessment. Such notice shall include:~~

- ~~(1) The purpose of the solid waste assessment;~~
- ~~(2) The rate of assessment to be levied against each parcel of property;~~

EXHIBIT "A"

- ~~(3) The unit of measurement applied to determine the solid waste assessment;~~
- ~~(4) The number of such units contained in each parcel of property;~~
- ~~(5) The total revenue to be collected by the city from the solid waste assessment;~~
- ~~(6) A statement that failure to pay the solid waste special assessment will cause a tax certificate to be issued against the property or foreclosure proceedings to be instituted, either of which may result in a loss of title to the property;~~
- ~~(7) A statement that all affected owners have a right to appear at the hearing and to file written objections with the city commission within 20 days of the notice;
and~~
- ~~(8) The date, time and place of the hearing.~~

~~The mailed notice shall conform to the requirements set forth in the Uniform Assessment Collection Act. Notice shall be mailed at least 20 calendar days prior to the hearing to each owner at such address as is shown on the tax roll. Notice shall be deemed mailed upon delivery to the possession of the United States Postal Service. The city manager may provide proof of such notice by affidavit. Failure of the owner to receive such notice due to mistake or inadvertence shall not affect the validity of the assessment roll nor release or discharge any obligation for payment of a solid waste special assessment imposed by the city commission pursuant to this article.~~

~~(Ord. No. 96-49, § 2.05, 9-9-1996)~~

Sec. 54-61. Adoption of final assessment resolution.

~~At the time named in the notice required by section 54-60, or to which an adjournment or continuance may be taken by the city commission, the city commission shall receive any written objections of interested persons and may then, or at any subsequent meeting of the city commission, adopt the final assessment and annual rate resolution, which shall:~~

- ~~(1) Confirm, modify or repeal the initial assessment resolution with such amendments, if any, as may be deemed appropriate by the city commission;~~
- ~~(2) Establish the rate of assessment to be imposed in the upcoming fiscal year;~~
- ~~(3) Approve the initial assessment roll, with such amendments as it deems just and right; and~~
- ~~(4) Determine the method of collection.~~

~~The adoption of the final assessment resolution by the city commission shall constitute a legislative determination that all parcels assessed derive a special benefit from the solid waste services, facilities or programs to be provided or constructed and a legislative determination that the solid waste special assessments are fairly and reasonably apportioned among the properties that receive the special benefit. All objections to the final assessment resolution shall be made in writing and filed with the city manager at or before the time or adjourned time of such hearing. The final~~

EXHIBIT "A"

~~assessment resolution shall constitute the annual rate resolution for the initial fiscal year in which solid waste special assessments are imposed or reimposed under this article.~~

~~(Ord. No. 96-49, § 2.06, 9-9-1996)~~

Sec. 54-62. Effect of final assessment resolution.

~~The solid waste special assessments for the initial fiscal year shall be established upon adoption of the final assessment resolution. The adoption of the final assessment resolution shall be the final adjudication of the issues presented (including but not limited to the determination of special benefit and fair apportionment to the assessed property, the method of apportionment and assessment, the initial rate of assessment, the initial assessment roll, and the levy and lien of the solid waste special assessments), unless proper steps shall be initiated in a court of competent jurisdiction to secure relief within 20 days from the date of the city commission action on the final assessment resolution. The initial assessment roll, as approved by the final assessment resolution, shall be delivered to the tax collector, as required by the Uniform Assessment Collection Act, or if the alternative method described in section 54-92 is used to collect the solid waste special assessments, such other official as the city commission by resolution shall designate.~~

~~(Ord. No. 96-49, § 2.07, 9-9-1996)~~

Sec. 54-63. Adoption of annual rate resolutions and indexing.

- (a) Fees due and payable for services rendered in the collection and disposal of solid waste shall be set and may be amended from time to time by resolution of the city commission.
- (b) The fees provided in this article shall be automatically adjusted ("indexed") by an amount equal to the annual increase in the index numbers for retail commodity prices designated as the "Consumer Price Index For All Urban Consumers—United States City Average—Water and Sewer and Trash Collection Services" (the "consumer price index" or "CPI") as issued by the Bureau of Labor Statistics, United States Department of Labor. The annual CPI increase shall assist in covering the costs and expenses in providing solid waste collection and disposal services, without the need for further consideration by the city commission. Notwithstanding the above, the city manager may is authorized to refrain from the imposingtion of a the CPI increase when the city manager determinesheshe or she finds that the increase is not needed to cover the city's costs. The city commission shall adopt an annual rate resolution during its budget adoption process for each fiscal year following the initial fiscal year for which a solid waste special assessment is imposed under this article.
- (b) ~~The initial proceedings for the adoption of an annual rate resolution shall be the adoption of a preliminary rate resolution by the city commission:~~

EXHIBIT "A"

- ~~(1) Containing a brief and general description of the solid waste services, facilities or programs to be provided;~~
- ~~(2) Estimating the solid waste assessed cost to be assessed for the upcoming fiscal year;~~
- ~~(3) Establishing the assessment rate for the upcoming fiscal year;~~
- ~~(4) Authorizing the date, time and place of a public hearing to receive and consider comments from the public and consider the adoption of the annual rate resolution for the upcoming fiscal year; and~~
- ~~(5) Directing the city manager to:
 - ~~a. Update the assessment roll;~~
 - ~~b. Provide notice by publication and first class mail to affected owners if circumstances described in subsection (f) of this section so require; and~~
 - ~~c. Directing and authorizing any supplemental or additional notice deemed proper, necessary or convenient by the city.~~~~

~~(c) The annual rate resolution shall:~~

- ~~(1) Establish the rate of assessment to be imposed in the upcoming fiscal year; and~~
- ~~(2) Approve the assessment roll for the upcoming fiscal year with such adjustments as the city commission deems just and right.~~

~~The assessment roll shall be prepared in accordance with the method of apportionment set forth in the initial assessment resolution together with modifications, if any, and as confirmed in the final assessment resolution or as provided in the preliminary rate resolution.~~

~~(d) Nothing in this section shall preclude the city commission from providing annual notification to all owners of assessed property in the manner provided in section 54-59 or 54-60.~~

~~(e) Nothing in this section shall preclude the city commission from establishing by resolution a maximum rate of assessment provided that notice of such maximum assessment rate is provided pursuant to sections 54-59 and 54-60.~~

~~(f) If:~~

- ~~(1) The proposed solid waste special assessment for any fiscal year exceeds the maximum rate of assessment adopted by the city commission and included in notice previously provided to the owners of assessed property pursuant to sections 54-59 and 54-60;~~
- ~~(2) The method of apportionment is changed or the purpose for which the solid waste special assessment is imposed is substantially changed from that represented by notice previously provided to the owners of assessed property pursuant to sections 54-59 and 54-60;~~

EXHIBIT "A"

- ~~(3) Assessed property is reclassified in a manner that results in an increased solid waste special assessment from that represented by notice previously provided to the owners of assessed property pursuant to sections 54-59 and 54-60; or~~
- ~~(4) An assessment roll contains assessed property that was not included on the assessment roll approved for the prior fiscal year;~~

~~notice shall be provided by publication and first class mail to the owners of such assessed property. Such notice shall substantially conform with the notice requirements set forth in sections 54-59 and 54-60 and inform the owner of the date, time and place for the adoption of the annual rate resolution. The failure of the owner to receive such notice due to mistake or inadvertence shall not affect the validity of the assessment roll nor release or discharge any obligation for payment of a solid waste special assessment imposed by the city commission pursuant to this article.~~

~~(g) — As to any assessed property not included on an assessment roll approved by the adoption of the final assessment resolution or a prior year's annual rate resolution, the adoption of the succeeding annual rate resolution shall be the final adjudication of the issues presented as to such assessed property (including but not limited to the determination of special benefit and fair apportionment to the assessed property, the method of apportionment and assessment, the rate of assessment, the assessment roll, and the levy and lien of the solid waste special assessments), unless proper steps shall be initiated in a court of competent jurisdiction to secure relief within 20 days from the date of the city commission action on the annual rate resolution. Nothing contained in this section shall be construed or interpreted to affect the finality of any solid waste special assessment not challenged within the required 20-day period for those solid waste special assessments imposed against assessed property by the inclusion of the assessed property on an approved assessment roll, the final assessment resolution, or any subsequent annual rate resolution.~~

~~(h) The assessment roll, as approved by the annual rate resolution, shall be delivered to the tax collector as required by the Uniform Assessment Collection Act, or if the alternative method described in section 54-92 is used to collect the solid waste special assessments, such other official as the city commission by resolution shall designate. If the solid waste special assessment against any property shall be sustained, reduced or abated by the court, an adjustment shall be made on the assessment roll.~~

(Ord. No. 96-49, § 2.08, 9-9-1996)

Sec. 54-64. Lien of solid waste special assessments.

~~(a) Upon the adoption of the assessment roll, all~~All solid waste special assessments shall constitute a lien against assessed property equal in rank and dignity with the liens of all state, county, district or municipal taxes and special assessments. Except as otherwise provided by law, such lien shall be superior in dignity to all other prior liens, mortgages, titles and claims until paid. The lien for a solid waste special assessment

EXHIBIT "A"

shall be deemed perfected upon adoption by the city commission of the final assessment resolution or later the annual rate resolution, or the annual indexing of the rate imposed by the city manager, whichever is applicable. The lien for a solid waste special assessment collected under the Uniform Assessment Collection Act shall attach to the property included on the assessment roll as of the prior January 1 as the lien date for ad valorem taxes imposed under the tax roll.

(b) -The lien for a solid waste special assessment collected under the alternative method of collection provided in section 54-92 shall be deemed perfected upon adoption by the city commission of the final assessment resolution or later the annual rate resolution, whichever is applicable, and shall attach to the property on such date of adoption.

(Ord. No. 96-49, § 2.09, 9-9-1996)

Sec. 54-65. ~~Reserved~~visions to solid waste special assessments.

~~If any solid waste special assessment made under the provisions of this article is either in whole or in part annulled, vacated or set aside by the judgment of any court, or if the city commission is satisfied that any such solid waste special assessment is so irregular or defective that it cannot be enforced or collected, or if the city commission has omitted any property on the assessment roll, which property should have been so included, the city commission may take all necessary steps to impose a new solid waste special assessment against any property benefited by the solid waste assessed costs, following as nearly as may be practicable the provisions of this article; and in case such second solid waste special assessment is annulled, vacated or set aside, the city commission may obtain and impose other solid waste special assessments until a valid solid waste special assessment is imposed.~~

(Ord. No. 96-49, § 2.10, 9-9-1996)

Sec. 54-66. Procedural irregularities.

Any informality or irregularity in the proceedings in connection with the levy of any solid waste special assessment under the provisions of this article shall not affect the validity of the assessment after its approval; and any solid waste special assessment as finally approved shall be competent and sufficient evidence that such solid waste special assessment was duly levied, that the solid waste special assessment was duly made and adopted, and that all other proceedings adequate to such solid waste assessment were duly had, taken and performed as required by this article; and no variance from the directions under this article shall be held material unless it be clearly shown that the party objecting was materially injured by such variance.

(Ord. No. 96-49, § 2.11, 9-9-1996)

EXHIBIT "A"

Sec. 54-67. Correction of errors and omissions.

- (a) No act of error or omission on the part of the property appraiser, tax collector, city manager, city commission, their deputies or employees, shall operate to release or discharge any obligation for payment of a solid waste assessment imposed by the city commission under the provisions of this article.
- (b) In addition to the provisions of subsection (a) above, the city manager may make arithmetic corrections and adjustments to any assessment roll prior to its delivery to the tax collector, and as otherwise provided in the Uniform Assessment Collection Act.
- ~~(b) — When it shall appear that any solid waste special assessment should have been imposed under this article against a parcel of property specially benefited by the provision of solid waste services, facilities or programs, but that such property was omitted from the assessment roll or was not listed on the tax roll as an individual parcel of property as of the effective date of the assessment roll approved by the annual rate resolution for any upcoming fiscal year, the city commission may, upon provision of a notice by mail provided to the owner of the omitted parcel in the manner and form provided in section 54-60, impose the applicable solid waste special assessment for the fiscal year in which such error is discovered, in addition to the applicable solid waste special assessment due for the prior two fiscal years. Such solid waste special assessment shall constitute a lien against assessed property equal in rank and dignity with the liens of all state, county, district, or municipal taxes and special assessments, and superior in rank and dignity to all other prior liens, mortgages, titles and claims in and to or against the real property involved; shall be collected as provided in division 3 of this article; and shall be deemed perfected on the date of adoption of the resolution imposing the omitted or delinquent assessments.~~
- ~~(c) Prior to the delivery of the assessment roll to the tax collector in accordance with the Uniform Assessment Collection Act, the city manager shall have the authority at any time, upon his own initiative or in response to a timely filed petition from the owner of any property subject to a solid waste assessment, to reclassify property based upon presentation of competent and substantial evidence, and correct any error in applying the solid waste special assessment apportionment method to any particular parcel of property not otherwise requiring the provision of notice pursuant to the Uniform Assessment Collection Act. Any such correction shall be considered valid ab initio and shall in no way affect the enforcement of the solid waste special assessment imposed under the provisions of this article. All requests from affected property owners for any such changes, modifications or corrections shall be~~
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EXHIBIT "A"

referred to and processed by the city manager and not the property appraiser or tax collector.

- ~~(d) After the assessment roll has been delivered to the tax collector in accordance with the Uniform Assessment Collection Act, any changes, modifications or corrections to the roll shall be made in accordance with the procedures applicable to correcting errors and insolvencies on the tax roll upon timely written request and direction of the city manager.~~

~~(Ord. No. 96-49, § 2.12, 9-9-1996)~~

Sec. 54-68. Interim assessments.

An interim solid waste special assessment shall be imposed against all property for which a certificate of occupancy is issued after finalization of the annual assessment roll adoption of the annual rate resolution. The amount of the interim solid waste special assessment shall be calculated upon a monthly rate, which shall be 1/12 of the annual rate for such property computed in accordance with the annual-current rate resolution applicable to for the fiscal year as may be indexed by the city manager, in which the certificate of occupancy is issued. Such monthly rate shall be imposed for each full calendar month remaining in the fiscal year. In addition to the monthly rate, the interim solid waste special assessment shall also include an estimate of the subsequent fiscal year's solid waste assessment. No certificate of occupancy shall be issued until full payment of the interim solid waste special assessment is received by the city. Issuance of the certificate of occupancy by mistake or inadvertence, and without the payment in full of the interim solid waste assessment, shall not relieve the owner of such property of the obligation of full payment. For the purpose of this provision, such interim solid waste special assessment shall be deemed due and payable on the date the certificate of occupancy was issued and shall constitute a lien against such property as of that date. The lien shall be equal in rank and dignity with the liens of all state, county, district or municipal taxes and special assessments, and superior in rank and dignity to all other liens, encumbrances, titles and claims in and to or against the real property involved and shall be deemed perfected upon the issuance of the certificate of occupancy.

(Ord. No. 96-49, § 2.13, 9-9-1996)

Secs. 54-69—54-90. Reserved.

DIVISION 3. COLLECTION AND USE

Sec. 54-91. Method of collection.

- (a) Unless otherwise directed by the city commission under the provisions of section 54-92, the solid waste special assessments shall be collected pursuant to the uniform method provided in the Uniform Assessment Collection Act; and the city shall comply with all applicable provisions of the Uniform Assessment Collection

EXHIBIT "A"

Act. Any hearing or notice required by this article may be combined with any other hearing or notice required by the Uniform Assessment Collection Act.

- (b) The amount of a solid waste special assessment to be collected using the uniform method pursuant to the Uniform Assessment Collection Act for any specific parcel of benefited property ~~shall~~ may include an amount equivalent to ~~any~~ the payment delinquency, delinquency fees and recording costs for a prior year's assessment for ~~the~~ comparable service, facility or program provided:
- (1) The collection method used in connection with the prior year's assessment did not employ the use of the uniform method of collection authorized by the Uniform Assessment Collection Act; and
 - (2) Notice is provided to the owner as required under the Uniform Assessment Collection Act; and
 - (3) Any lien on the affected parcel for the prior year's assessment is supplanted and transferred to such solid waste special assessment upon certification of a non-ad-valorem roll to the tax collector by the city.

(Ord. No. 96-49, § 3.01, 9-9-1996)

Sec. 54-92. Alternative method of collection.

- (a) In lieu of utilizing the Uniform Assessment Collection Act, the city may elect to collect the solid waste special assessments by any other method authorized by law or under the alternative collection method provided by this section.
- (b) The city shall provide solid waste special assessment bills by first class mail to the owner of each affected parcel of property, other than government property. The bill or accompanying explanatory material shall include:
 - (1) A brief explanation of the solid waste assessment;
 - (2) A description of the unit of measurement used to determine the amount of the solid waste assessment;
 - (3) The number of units contained within the parcel;
 - (4) The total amount of the solid waste special assessment imposed against the parcel for the appropriate period;
 - (5) The location at which payment will be accepted;
 - (6) The date on which the solid waste special assessment is due; and
 - (7) A statement that the solid waste special assessment constitutes a lien against assessed property equal in rank and dignity with the liens of all state, county, district or municipal taxes and other non-ad-valorem assessments.
- (c) A general notice of the lien resulting from imposition of the solid waste special assessments shall be recorded in the official records of the county. Nothing in this

EXHIBIT "A"

subsection shall be construed to require that individual liens or releases be filed in the official records.

- (d) The city shall have the right to foreclose and collect all delinquent solid waste special assessments in the manner provided by law for the foreclosure of mortgages on real property or appoint or retain an agent to institute such foreclosure and collection proceedings. A solid waste special assessment shall become delinquent if it is not paid within 30 days from the date any installment is due. The city or its agent shall notify any property owner who is delinquent in payment of his solid waste special assessment within 60 days from the date such assessment was due. Such notice shall state in effect that the city or its agent will either:
- (1) Initiate a foreclosure action or suit in equity and cause the foreclosure of such property subject to a delinquent solid waste special assessment in a method provided by law for foreclosure of mortgages on real property; or
 - (2) Cause an amount equivalent to the delinquent solid waste assessment, not previously subject to collection using the uniform method under the Uniform Assessment Collection Act, to be collected on the tax bill for a subsequent year.
- (e) All costs, fees and expenses, including reasonable attorney's fees and title search expenses, related to any foreclosure action as described in this section shall be included in any judgment or decree rendered in the judgment. At the sale pursuant to decree in any such action, the city may be the purchaser to the same extent as any person. The city or its agent may join in one foreclosure action the collection of solid waste special assessments against any or all property assessed in accordance with the provisions of this section. All delinquent owners whose property is foreclosed shall be liable for an apportioned amount of reasonable costs and expenses incurred by the city and its agents, including reasonable attorney's fees, in collection of such delinquent solid waste assessments and any other costs incurred by the city as a result of such delinquent solid waste special assessments; and the same shall be collectible as a part of or in addition to the costs of the action.
- (f) In lieu of foreclosure, any delinquent solid waste special assessment and the costs, fees and expenses attributable to such assessment, may be collected pursuant to the Uniform Assessment Collection Act; however:
- (1) Notice must be provided to the owner in the manner required by the Uniform Assessment Collection Act and this article; and
 - (2) Any existing lien of record on the affected parcel for the delinquent solid waste special assessment must be supplanted by the lien resulting from certification of the assessment roll, as applicable, to the tax collector.

EXHIBIT "A"

(g) Notwithstanding the city's use of an alternative method of collection, the city manager shall have the same power and authority to correct errors and omissions as provided to him or county officials in section 54-67.

(h) Any city commission action required in the collection of solid waste special assessments may be made by resolution.

(Ord. No. 96-49, § 3.02, 9-9-1996)

Sec. 54-93. Government property.

~~(a) If solid waste special assessments are imposed against government property, the city shall provide solid waste special assessment bills by first class mail to the owner of each affected parcel of government property. The bill or accompanying explanatory material shall include:~~

~~(1) A brief explanation of the solid waste assessment;~~

~~(2) A description of the unit of measurement used to determine the amount of the solid waste assessment;~~

~~(3) The number of units contained within the parcel;~~

~~(4) The total amount of the parcel's solid waste special assessment for the appropriate period;~~

~~(5) The location at which payment will be accepted; and~~

~~(6) The date on which the solid waste special assessment is due.~~

~~(b) Solid waste special assessments imposed against government property shall be due on the same date as all other solid waste special assessments and, if applicable, shall be subject to the same discounts for early payment.~~

~~(c) A solid waste special assessment shall become delinquent if it is not paid within 30 days from the date any installment is due. The city shall notify the owner of any government property that is delinquent in payment of its solid waste special assessment within 60 days from the date such assessment was due. Such notice shall state that the city will initiate a mandamus or other appropriate judicial action to compel payment.~~

~~(d) All costs, fees and expenses, including reasonable attorney's fees and title search expenses, related to any mandamus or other action as described in this division shall be included in any judgment or decree rendered in such action. All delinquent owners of government property against which a mandamus or other appropriate action is filed shall be liable for an apportioned amount of reasonable costs and expenses incurred by the city, including reasonable attorney's fees, in collection of such delinquent solid waste special assessments and any other costs incurred by~~

EXHIBIT "A"

~~the city as a result of such delinquent solid waste special assessments; and the costs shall be collectible as a part of or in addition to, the costs of the action.~~

~~(e) As an alternative, a solid waste special assessment imposed against government property may be collected as a surcharge on a utility bill provided to such government property in periodic installments with a remedy of a mandamus action in the event of nonpayment. The city commission may contract for such billing services with any utility, whether or not such utility is owned by the city.~~

~~(Ord. No. 96-49, § 3.03, 9-9-1996)~~

Secs. 54-94—54-125. Reserved.

ARTICLE III. STORMWATER UTILITY³

DIVISION 1. GENERALLY

Sec. 54-126. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

~~*Annual rate resolution means the resolution described in section 54-158, establishing the rate at which a stormwater utility assessment for a specific fiscal year will be computed. The final assessment resolution shall constitute the annual rate resolution for the initial fiscal year in which a stormwater utility assessment is imposed or reimposed.*~~

~~*Assessed property means all parcels of land included on the assessment roll that receive a special benefit from the delivery of the stormwater utility services, programs or facilities identified in the initial assessment resolution or the preliminary rate resolution.*~~

~~*Assessment roll means the special assessment roll relating to a stormwater utility assessment approved by a final assessment resolution pursuant to section 54-156 or an annual rate resolution pursuant to section 54-158.*~~

~~*Building means any structure, whether temporary or permanent, built for support, shelter or enclosure of persons, chattel or property of any kind. This term shall include mobile homes or any vehicles serving in any way the function of a building.*~~

~~*Certificate of occupancy means the written certification issued by the city that a building is ready for occupancy for its intended use. For the purposes of this article, a*~~

³ Editor's note(s)—Ord. No. 16-02, § 1, adopted Aug. 19, 2002, states that this article III is readopted and confirmed to be in full force and effect unless and until the city commission should ordain to discontinue the utility.

Cross reference(s)—Flood control, ch. 90.

EXHIBIT "A"

~~setup permit or its equivalent issued for a mobile home shall be considered a certificate of occupancy.~~

Developed property means property that has been altered from its natural state by the addition of any improvements, including but not limited to buildings, structures or impervious surfaces. For new construction, a property shall be considered developed pursuant to this article upon issuance of a certificate of occupancy, or upon completion of construction or final inspection if no such certificate is issued.

Dwelling unit means one or more rooms in a building, forming a separate and independent housekeeping establishment, arrangement, designed or intended to be used or occupied by one family and having no enclosed space or cooking or sanitary facilities in common with any other dwelling unit with no ingress or egress through any other dwelling unit, and containing permanent provisions for sleeping facilities, sanitary facilities and not more than one kitchen.

Equivalent residential unit (ERU) means the statistical average horizontal impervious area of residential units. The horizontal impervious area includes but is not limited to all areas covered by structures, roof extensions, patios, porches, driveways and sidewalks. The common denominator used for relating runoff is the ERU.

~~*Final assessment resolution* means the resolution described in section 54-156, which shall confirm, modify or repeal the initial assessment resolution and which shall be the final proceeding for the initial imposition of stormwater utility assessments.~~

~~*Fiscal year* means that period commencing October 1 of each year and continuing through the next succeeding September 30, or such other period as may be prescribed by law as the fiscal year for the city.~~

~~*Government property* means property owned by the United States of America or any of its agencies, a sovereign state or nation, the state or any of its agencies, a county, a special district or a municipal corporation.~~

Impervious area means an area covered by material that does not permit infiltration or percolation of water into the ground. Such impervious areas may include but are not limited to areas covered by roofs, roof extensions, slabs, patios, porches, driveways, sidewalks, parking areas and athletic courts.

~~*Initial assessment resolution* means the resolution described in section 54-152, which shall be the initial proceeding for the identification of the stormwater utility assessed cost for which an assessment is to be made and for the imposition of a stormwater utility assessment.~~

Lot means an area of land that abuts a street or other means of legal access and either complies with or is exempt from the Land Development Code; is sufficient in size to meet the minimum area and width requirements for its zoning classification; and a portion of subdivision or any other tract or parcel of land, including the air space above contiguous thereto, intended as a unit for transfer of ownership or for development or both. The word "lot" includes plot, tract or parcel.

EXHIBIT "A"

Nonresidential developed property means any developed property that is classified by the property appraiser as land use types 10 through 99, using the state department of revenue land use codes.

~~*Owner* means the person reflected as the owner of assessed property on the tax roll.~~

Parcel of land means any quantity of land capable of being described with such definiteness that its location and boundaries may be established, which is designated by its owner or developed as a unit or which has been used or developed as a unit, or which may be developed into a unit.

~~*Preliminary rate resolution* means the resolution described in section 54-158 initiating the annual process for updating the assessment roll and directing the reimposition of stormwater utility assessments pursuant to an annual rate resolution.~~

~~*Property appraiser* means the property appraiser of the county.~~

Residential developed property means developed property that is classified by the property appraiser as land use 00 through 09 using the state department of revenue land use codes.

Stormwater means that part of the precipitation that travels over natural, altered or improved surfaces to the nearest stream channel or impoundment, and which appears in surface waters.

Stormwater utility assessment means a special assessment lawfully imposed by the city against assessed property to fund all or any portion of the cost of the provision of stormwater utility services, facilities or programs providing a special benefit to property as a consequence of possessing a logical relationship to the value, use or characteristics of property identified in the initial assessment resolution or the preliminary rate resolution.

Stormwater utility assessed cost means the amount determined by the city commission to be assessed in any fiscal year to fund all or any portion of the cost of the provision of stormwater utility services, facilities or programs which provide a special benefit to assessed property, and shall include but not be limited to the following components:

- (1) The cost of physical construction, reconstruction or completion of any required facility or improvement;
- (2) The costs incurred in any required acquisition or purchase;
- (3) The cost of all labor, materials, machinery and equipment;
- (4) The cost of fuel, parts, supplies, maintenance, repairs and utilities;
- (5) The cost of computer services, data processing and communications;
- (6) The cost of all lands and interest therein, leases, property rights, easements and franchises of any nature whatsoever;
- (7) The cost of any indemnity or surety bonds and premiums for insurance;

EXHIBIT "A"

- (8) The cost of salaries, volunteer pay, workers' compensation insurance, or other employment benefits;
- (9) The cost of uniforms, training, travel, and per diem;
- (10) The cost of construction plans and specifications, surveys and estimates of costs;
- (11) The cost of engineering, financial, legal and other professional services;
- (12) The costs of compliance with any contracts or agreements entered into by the city to provide stormwater utility services;
- (13) All costs associated with the structure, implementation, collection and enforcement of the stormwater utility assessments, including any service charges of the tax collector, or property appraiser and amounts necessary to offset discounts received for early payment of stormwater utility assessments pursuant to the Uniform Assessment Collection Act or for early payment of Stormwater Utility Assessments collected pursuant to section 54-187;
- (14) All other costs and expenses necessary or incidental to the acquisition, provision or construction of stormwater utility services, facilities or programs, and such other expenses as may be necessary or incidental to any related financing authorized by the city commission by subsequent resolution;
- (15) A reasonable amount for contingency and anticipated delinquencies and uncollectible stormwater utility assessments; and
- (16) Reimbursement to the city or any other person for any moneys advanced for any costs incurred by the city or such person in connection with any of the foregoing components of stormwater utility assessed cost.

If the city also imposes an impact fee upon new growth or development for stormwater utility related capital improvements, the stormwater utility assessed cost shall not include costs attributable to capital improvements necessitated by new growth or development.

~~*Tax collector* means the tax collector of the county.~~

~~*Tax roll* means the real property ad valorem tax assessment roll maintained by the property appraiser for the purpose of the levy and collection of ad valorem taxes.~~

~~*Uniform Assessment Collection Act* means F.S. §§ 197.3632 and 197.3635, or any successor statutes authorizing the collection of non-ad valorem assessments on the same bill as ad valorem taxes, and any applicable regulations promulgated under such statutes.~~

(Ord. No. 96-48, § 1.01, 9-9-1996)

Cross reference(s)—Definitions generally, § 1-2.

EXHIBIT "A"

Sec. 54-127. General findings.

It is ascertained, determined, and declared that:

- (1) Pursuant to Fla. Const., art. VIII, § 2(b), and F.S. §§ 166.021, 166.041, and 403.0893, the city commission has all powers of local self government necessary to perform municipal functions, render municipal services except when prohibited by law, and such power may be exercised by the enactment of legislation in the form of city ordinances. These powers specifically include the authority to construct, reconstruct, improve and extend stormwater management systems, or create stormwater utilities and to finance in whole or in part the costs of such systems and to establish just and equitable rates, fees and charges for the services and facilities provided by such systems.
- (2) The city commission may exercise any governmental, corporate or proprietary power for a municipal purpose except when expressly prohibited by law, and the city commission may legislate on any subject matter on which the state legislature may act, except those subjects described in F.S. § 166.021(3)(a)—(d). The subject matter of paragraphs F.S. § 166.021(3)(a)—(d), are not relevant to the imposition of assessments related to stormwater utility services, facilities or programs of the city.
- (3) The purpose of this article is to:
 - a. Provide procedures and standards for the imposition of citywide stormwater utility assessments under the general home rule powers of a municipality to impose special assessments;
 - b. Authorize a procedure for the funding of stormwater utility services, facilities or programs providing special benefits to property within the city; and
 - c. Legislatively determine the special benefit provided to assessed property from the provision of stormwater utilities.
- (5) The annual stormwater utility assessments to be imposed pursuant to this article shall constitute non-ad-valorem assessments within the meaning and intent of the Uniform Assessment Collection Act.
- (8) The stormwater utility assessment imposed pursuant to this article is imposed by the city, not the county board of county commissioners, property appraiser or tax collector. Any activity of the property appraiser or tax collector under the provisions of this article shall be construed as ministerial.

(Ord. No. 96-48, § 1.03, 9-9-1996)

EXHIBIT "A"

Sec. 54-128. Legislative determinations of special benefit.

It is ascertained and declared that the stormwater utility services, facilities and programs of the city provide a special benefit to property within the city based upon the following legislative determinations. The city commission finds that:

- (1) The state legislature has adopted F.S. § 403.893, which encourages proper management of stormwater runoff and water quality;
- (2) The stormwater utility services possess a logical relationship to the use and enjoyment of property by:
 - a. Providing availability and use of facilities or improvements by owners and occupants of property to properly and safely detain, retain, convey or treat stormwater discharge from such property;
 - b. Stabilizing or increasing property values;
 - c. Increasing safety and better access to property;
 - d. Improving appearance;
 - e. Rendering property more adaptable to a current or reasonably foreseeable new and higher use;
 - f. Alleviating burdens caused by use of property; and
 - g. Fostering and enhancing environmentally responsible use and enjoyment of natural resources within the city;
- (3) The benefits provided by the stormwater utility services bear a logical relationship to the value, use and characteristics of the property located within the city;
- (4) The stormwater assessments authorized by this article provide an equitable method of funding stormwater utility services by fairly and reasonably allocating such costs to such benefited property classified on the basis of the stormwater burden expected to be generated by the physical characteristics and use of such property;
- (5) There has previously been adopted county ordinances that created a stormwater utility municipal service district, which district included the now incorporated City of Deltona;
- (6) There is a desire to develop a stormwater management program to be responsible for the operation, construction and maintenance of stormwater devices and for stormwater system planning;
- (7) The cost of operating and maintaining all stormwater management systems and the financing of existing and future necessary repairs, replacements, improvements and extensions of such systems should, to the extent practicable, be allocated in relationship to the benefits enjoyed and to be enjoyed and services received and to be received from such systems;

EXHIBIT "A"

- (8) The report entitled "The Stormwater Control, Conservation and Aquifer Recharge Program Phase I and II," which provide for stormwater management needs assessment and a stormwater management study, and further studies and reports are ongoing;
- (9) The county has previously established a stormwater utility assessment for an area inclusive of the city;
- (10) There exists a pressing need for stormwater improvements within the city;
- (11) Property, including occupied residential property within the city, is presently flooded or in danger of flooding and that such flooding is reoccurring and worsening;
- (12) Stormwater control is an essential element of the public health, safety and welfare;
- (13) The continuation and augmentation of the county stormwater program is in the best interests of the public health, safety and welfare;
- (14) There are in excess of 14,000 vacant parcels of property within the city, which may be developed and for which stormwater facilities will be required; and
- (15) There exists a need to enhance the existing stormwater program by extending the stormwater assessments to vacant property in order to ensure proper drainage and future drainage for such sites.

(Ord. No. 96-48, § 1.04, 9-9-1996)

Sec. 54-129. Applicability.

This article and the city's authority to impose assessments shall be applicable throughout the city.

(Ord. No. 96-48, § 4.01, 9-9-1996)

Sec. 54-130. Alternative method.

- (a) This article shall be deemed to provide an additional and alternative method for the doing of the things authorized by this article and shall be regarded as supplemental and additional to powers conferred by other laws, and shall not be regarded as in derogation of any powers now existing or which may hereafter come into existence. This article, being necessary for the welfare of the inhabitants of the city, shall be liberally construed to effect its purposes.
- (b) Nothing in this article shall preclude the city commission from directing and authorizing, by resolution, the combination with each other of any:
 - (1) Supplemental or additional notice deemed proper, necessary or convenient by the city;
 - (2) Notice required by this article; or

EXHIBIT "A"

(3) Notice required by law, including the Uniform Assessment Collection Act.
(Ord. No. 96-48, § 4.02, 9-9-1996)

Sec. 54-131. Exemptions.

Government property that is utilized solely for the retention of stormwater for public roadway purposes shall be exempt from stormwater utility assessments.

(Ord. No. 13-2007, § 1, 6-18-2007)

Secs. 54-132—54-150. Reserved.

DIVISION 2. ANNUAL ASSESSMENTS

Sec. 54-151. General authority.

- (a) The city commission is authorized to impose an annual stormwater utility assessment to fund all or any portion of the stormwater utility assessed cost upon benefited property at a rate of assessment based on the special benefit accruing to such property from the city's provision of stormwater utility services, facilities, stormwater control, conservation and aquifer recharge (also referred to as stormwater management). All stormwater utility assessments shall be imposed in conformity with the procedures set forth in this division.
- (b) The amount of the stormwater utility assessment imposed in a fiscal year against a parcel of assessed property shall be determined pursuant to an apportionment methodology based upon a classification of property designed to provide a fair and reasonable apportionment of the stormwater utility assessed cost among properties on a basis reasonably related to the special benefit provided by stormwater utility services, facilities or programs funded with assessment proceeds. ~~Nothing contained in this article shall be construed to require the imposition of stormwater utility assessments against government property.~~

(Ord. No. 96-48, § 2.01, 9-9-1996)

~~Sec. 54-152. Initial proceedings.~~

~~The initial proceeding for the imposition of a stormwater utility assessment shall be the adoption of an initial assessment resolution by the city commission:~~

- ~~(1) Containing a brief and general description of the stormwater utility services, facilities or programs to be provided;~~
- ~~(2) Estimating the stormwater utility assessed cost to be assessed;~~
- ~~(3) Describing the method of apportioning the stormwater utility assessed cost and the computation of the stormwater utility assessment for specific properties;~~

EXHIBIT "A"

- ~~(4) Providing a summary description of the parcels of property (conforming to the description contained on the tax roll) located within the city that receive a special benefit from the provision of stormwater utility services, facilities or programs or describing a specific geographic area in which such service, facility or program will be provided;~~
- ~~(5) Establishing an assessment rate for the upcoming fiscal year; and~~
- ~~(6) Directing the city manager to:
 - ~~a. Prepare the initial assessment roll, as required by section 54-153;~~
 - ~~b. Publish the notice required by section 54-154; and~~
 - ~~c. Mail the notice required by section 54-155, using information then available from the tax roll.~~~~

~~(Ord. No. 96-48, § 2.02, 9-9-1996)~~

~~**Sec. 54-153. Initial assessment roll.**~~

- ~~(a) The city manager shall prepare or direct the preparation of the initial assessment roll, which shall contain the following:
 - ~~(1) A summary description of all assessed property conforming to the description contained on the tax roll.~~
 - ~~(2) The name of the owner of the assessed property.~~
 - ~~(3) The amount of the stormwater utility assessment to be imposed against each such parcel of assessed property.~~~~
- ~~(b) The initial assessment roll shall be retained by the city manager and shall be open to public inspection. The foregoing shall not be construed to require that the assessment roll be in printed form if the amount of the stormwater utility assessment for each parcel of property can be determined by use of a computer terminal available to the public.~~

~~(Ord. No. 96-48, § 2.03, 9-9-1996)~~

~~**Sec. 54-154. Notice by publication.**~~

~~Upon completion of the initial assessment roll, the city manager shall publish or direct the publication of once in a newspaper of general circulation within the city a notice stating that at a meeting of the city commission on a certain day and hour, not earlier than 20 calendar days from such publication, which meeting shall be a regular, adjourned or special meeting, the city commission will hear objections of all interested persons to the final assessment resolution, which shall establish the rate of assessment and approve the initial assessment roll. The published notice shall conform to the requirements set forth in the Uniform Assessment Collection Act. Such notice shall include:~~

EXHIBIT "A"

- ~~(1) A geographic depiction of the property subject to the stormwater utility assessment;~~
- ~~(2) A brief and general description of the stormwater utility services, facilities or programs to be provided;~~
- ~~(3) The rate of assessment;~~
- ~~(4) The procedure for objecting provided in section 54-156;~~
- ~~(5) The method by which the stormwater utility assessment will be collected; and~~
- ~~(6) A statement that the initial assessment roll is available for inspection at the office of the city clerk and that all interested persons may ascertain the amount to be assessed against a parcel of assessed property at the office of the city clerk.~~

~~(Ord. No. 96-48, § 2.04, 9-9-1996)~~

~~**Sec. 54-155. Notice by mail.**~~

~~In addition to the published notice required by section 54-154, the city manager shall provide or direct the provision of notice of the proposed stormwater utility assessment by first class mail to the owner of each parcel of property (except government property) subject to the stormwater utility assessment. Such notice shall include:~~

- ~~(1) The purpose of the stormwater utility assessment;~~
- ~~(2) The rate of assessment to be levied against each parcel of property;~~
- ~~(3) The unit of measurement applied to determine the stormwater utility assessment;~~
- ~~(4) The number of such units contained in each parcel of property;~~
- ~~(5) The total revenue to be collected by the city from the stormwater utility assessment;~~
- ~~(6) A statement that failure to pay the stormwater utility assessment will cause a tax certificate to be issued against the property or foreclosure proceedings to be instituted, either of which may result in a loss of title to the property;~~
- ~~(7) A statement that all affected owners have a right to appear at the hearing and to file written objections with the city commission within 20 days of the notice; and~~
- ~~(8) The date, time and place of the hearing.~~

~~The mailed notice shall conform to the requirements set forth in the Uniform Assessment Collection Act. Notice shall be mailed at least 20 calendar days prior to the hearing to each owner at such address as is shown on the tax roll. Notice shall be deemed mailed upon its delivery to the possession of the United States Postal Service.~~

EXHIBIT "A"

~~The city manager may provide proof of such notice by affidavit. Failure of the owner to receive such notice due to mistake or inadvertence shall not affect the validity of the assessment roll nor release nor discharge any obligation for payment of a stormwater utility assessment imposed by the city commission pursuant to this article.~~

~~(Ord. No. 96-48, § 2.05, 9-9-1996)~~

~~**Sec. 54-156. Adoption of final assessment resolution.**~~

~~At the time named in the notice pursuant to section 54-155, or to which an adjournment or continuance may be taken by the city commission, the city commission shall receive any written objections of interested persons and may then, or at any subsequent meeting of the city commission, adopt the final assessment resolution which shall:~~

- ~~(1) Confirm, modify or repeal the initial assessment resolution with such amendments, if any, as may be deemed appropriate by the city commission;~~
- ~~(2) Establish the rate of assessment to be imposed in the upcoming fiscal year;~~
- ~~(3) Approve the initial assessment roll, with such amendments as it deems just and right; and~~
- ~~(4) Determine the method of collection.~~

~~The adoption of the final assessment resolution by the city commission shall constitute a legislative determination that all parcels assessed derive a special benefit from the stormwater utility services, facilities or programs to be provided or constructed and a legislative determination that the stormwater utility assessments are fairly and reasonably apportioned among the properties that receive the special benefit. All objections to the final assessment resolution shall be made in writing and filed with the city manager at or before the time or adjourned time of such hearing. The final assessment resolution shall constitute the annual rate resolution for the initial fiscal year in which stormwater utility assessments are imposed or reimposed under this article.~~

~~(Ord. No. 96-48, § 2.06, 9-9-1996)~~

~~**Sec. 54-157. Effect of final assessment resolution.**~~

~~The stormwater utility assessments for the initial fiscal year shall be established upon adoption of the final assessment resolution. The adoption of the final assessment resolution shall be the final adjudication of the issues presented (including but not limited to the determination of special benefit and fair apportionment to the assessed property, the method of apportionment and assessment, the initial rate of assessment, the initial assessment roll, and the levy and lien of the stormwater utility assessments), unless proper steps shall be initiated in a court of competent jurisdiction to secure relief within 20 days from the date of the city commission action on the final assessment resolution. The initial assessment roll, as approved by the final assessment resolution, shall be delivered to the tax collector, as required by the Uniform Assessment Collection~~

EXHIBIT "A"

~~Act, or if the alternative method described in section 54-187 is used to collect the stormwater utility assessments, or such other official as the city commission by resolution shall designate.~~

~~(Ord. No. 96-48, § 2.07, 9-9-1996)~~

Sec. 54-158. Adoption of annual-rate resolutions and indexing.

- ~~(a) (a) Fees due and payable for the provision of the stormwater utility shall be set and may be amended from time to time by resolution of the city commission.~~
- ~~(b) The fees provided in this article shall be automatically adjusted ("indexed") by an amount equal to the annual increase in the index numbers of retail commodity prices designated "Consumer Price Index For All Urban Consumers—United States City Average—Water and Sewer and Trash Collection Services" (the "consumer price index" or "CPI") as issued by the Bureau of Labor Statistics, United States Department of Labor. The annual CPI increase shall assist in covering the costs and expenses in the provision of the stormwater utility, without the need for further consideration by the city commission. Notwithstanding the above, the city manager may be authorized to refrain from the imposition of a the CPI increase when the city manager he or she finds that determines the increase is not needed to cover the city's costs. The city commission shall adopt an annual rate resolution during its budget adoption process for each fiscal year following the initial fiscal year for which a stormwater utility assessment is imposed under this article.~~
- ~~(c) (a) As an alternative procedure to adoption of an annual rate resolutions, by the rate resolution set forth at section 54-158 above, the city commission may adopt a variable or maximum rate resolution, setting forth a maximum rate for which the stormwater utility assessment may be imposed thereafter each year following adoption of the resolution unless or until the assessment is increased beyond the maximum rate so authorized or discontinued.~~

~~(b) The initial proceedings for the adoption of an annual rate resolution shall be the adoption of a preliminary rate resolution by the city commission:~~

- ~~(1) Containing a brief and general description of the stormwater utility services, facilities or programs to be provided;~~
- ~~(2) Estimating the stormwater utility assessed cost to be assessed for the upcoming fiscal year;~~
- ~~(3) Establishing the assessment rate for the upcoming fiscal year;~~
- ~~(4) Authorizing the date, time and place of a public hearing to receive and consider comments from the public and consider the adoption of the annual rate resolution for the upcoming fiscal year; and~~

EXHIBIT "A"

~~(5) Directing the city manager to:~~

- ~~a. Update the assessment roll;~~
- ~~b. Provide notice by publication and first class mail to affected owners if circumstances described in subsection (f) of this section so require; and~~
- ~~c. Directing and authorizing any supplemental or additional notice deemed proper, necessary or convenient by the city.~~

~~(c) The annual rate resolution shall:~~

- ~~(1) Establish the rate of assessment to be imposed in the upcoming fiscal year; and~~
- ~~(2) Approve the assessment roll for the upcoming fiscal year, with such adjustments as the city commission deems just and right.~~

~~The assessment roll shall be prepared in accordance with the method of apportionment set forth in the initial assessment resolution, together with modifications, if any, and as confirmed in the final assessment resolution or as provided in the preliminary rate resolution.~~

~~(d) Nothing in this section shall preclude the city commission from providing annual notification to all owners of assessed property in the manner provided in section 54-154 or 54-155.~~

~~(e) Nothing in this section shall preclude the city commission from establishing by resolution a maximum rate of assessment provided that notice of such maximum assessment rate is provided pursuant to sections 54-154 and 54-155.~~

~~(f) If:~~

- ~~(1) The proposed stormwater utility assessment for any fiscal year exceeds the maximum rate of assessment adopted by the city commission and included in the notice previously provided to the owners of assessed property pursuant to sections 54-154 and 54-155;~~
 - ~~(2) The method of apportionment is changed or the purpose for which the stormwater utility assessment is imposed is substantially changed from that represented by notice previously provided to the owners of assessed property pursuant to sections 54-154 and 54-155;~~
 - ~~(3) Assessed property is reclassified in a manner that results in an increased stormwater utility assessment from that represented by notice previously provided to the owners of assessed property pursuant to sections 54-154 and 54-155; or~~
 - ~~(4) An assessment roll contains assessed property that was not included on the assessment roll approved for the prior fiscal year;~~
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EXHIBIT "A"

~~notice shall be provided by publication and first class mail to the owners of such assessed property. Such notice shall substantially conform with the notice requirements set forth in sections 54-154 and 54-155; and inform the owner of the date, time and place for the adoption of the annual rate resolution. The failure of the owner to receive such notice due to mistake or inadvertence, shall not affect the validity of the assessment roll nor release or discharge any obligation for payment of a stormwater utility assessment imposed by the city commission pursuant to this article.~~

~~(g) — As to any assessed property not included on an assessment roll approved by the adoption of the final assessment resolution or a prior year's annual rate resolution, the adoption of the succeeding annual rate resolution shall be the final adjudication of the issues presented as to such assessed property (including but not limited to the determination of special benefit and fair apportionment to the assessed property, the method of apportionment and assessment, the rate of assessment, the assessment roll, and the levy and lien of the stormwater utility assessments), unless proper steps shall be initiated in a court of competent jurisdiction to secure relief within 20 days from the date of the city commission action on the annual rate resolution. Nothing contained in this section shall be construed or interpreted to affect the finality of any stormwater utility assessment not challenged within the required 20-day period for those stormwater utility assessments imposed against assessed property by the inclusion of the assessed property on an assessment roll approved in the final assessment resolution or any subsequent annual rate resolution.~~

~~(h) The assessment roll, as approved by the annual rate resolution, shall be delivered to the tax collector as required by the Uniform Assessment Collection Act, or if the alternative method described in section 54-187 is used to collect the stormwater utility assessments, such other official as the city commission by resolution shall designate. If the stormwater utility assessment against any property shall be sustained, reduced or abated by the court, an adjustment shall be made on the assessment roll.~~

(Ord. No. 96-48, § 2.08, 9-9-1996)

Sec. 54-159. Lien of stormwater utility assessments.

~~Upon the adoption of the assessment roll, A~~all stormwater utility assessments shall constitute a lien against assessed property equal in rank and dignity with the liens of all state, county, district or municipal taxes and special assessments. Except as otherwise provided by law, such lien shall be superior in dignity to all other prior liens, mortgages, titles and claims until paid. The lien for a stormwater utility assessment shall be deemed perfected upon adoption by the city commission of the final assessment resolution or the annual rate resolution, whichever is applicable. The lien for a stormwater utility assessment collected under the Uniform Assessment Collection Act shall attach to the property included on the assessment roll as of the prior January 1, the lien date for ad valorem taxes imposed under the tax roll. The lien for a stormwater utility assessment collected under the alternative method of collection provided in section 54-187 shall be

EXHIBIT "A"

deemed perfected upon adoption by the city commission of the final assessment resolution or the annual rate resolution, whichever is applicable, and shall attach to the property on such date of adoption.

(Ord. No. 96-48, § 2.09, 9-9-1996)

Sec. 54-160. Revisions to stormwater utility assessments.

If any stormwater utility assessment made under the provisions of this article is either in whole or in part annulled, vacated or set aside by the judgment of any court, or if the city commission is satisfied that any such stormwater utility assessment is so irregular or defective that it cannot be enforced or collected, or if the city commission has omitted any property on the assessment roll, which property should have been so included, the city commission may take all necessary steps to impose a new stormwater utility assessment against any property benefited by the stormwater utility assessed costs, following as nearly as may be practicable the provisions of this article; and if such second stormwater utility assessment is annulled, vacated or set aside, the city commission may obtain and impose other stormwater utility assessments until a valid stormwater utility assessment is imposed.

(Ord. No. 96-48, § 2.10, 9-9-1996)

Sec. 54-161. Procedural irregularities.

Any informality or irregularity in the proceedings in connection with the levy of any stormwater utility assessment under the provisions of this article shall not affect the validity of the assessment after its approval, and any stormwater utility assessment as finally approved shall be competent and sufficient evidence that such stormwater utility assessment was duly levied, that the stormwater utility assessment was duly made and adopted, and that all other proceedings adequate to such stormwater utility assessment were duly had, taken and performed as required by this article; and such variance from these directions shall be held material unless it be clearly shown that the party objecting was materially injured by the variance.

(Ord. No. 96-48, § 2.11, 9-9-1996)

Sec. 54-162. Correction of errors and omissions.

- (a) No act of error or omission on the part of the property appraiser, tax collector, city manager, city commission, their deputies or employees, shall operate to release or discharge any obligation for payment of a stormwater utility assessment imposed by the city commission under the provisions of this article.
- (b) ~~When it shall appear that any stormwater utility assessment should have been imposed under this article against a parcel of property specially benefited by the provision of stormwater utility services, facilities or programs, but that such property was omitted from the assessment roll or was not listed on the tax roll as an individual parcel of property as of the effective date of the assessment roll~~

EXHIBIT "A"

~~approved by the annual rate resolution for any upcoming fiscal year, the city commission may, upon provision of a notice by mail provided to the owner of the omitted parcel in the manner and form provided in section 54-155, impose the applicable stormwater utility assessment for the fiscal year in which such error is discovered, in addition to the applicable stormwater utility assessment due for the prior two fiscal years. Such stormwater utility assessment shall constitute a lien against assessed property equal in rank and dignity with the liens of all state, county, district or municipal taxes and special assessments, and superior in rank and dignity to all other prior liens, mortgages, titles and claims in and to or against the real property involved; shall be collected as provided in division 3 of this article; and shall be deemed perfected on the date of adoption of the resolution imposing the omitted or delinquent assessments.~~

- ~~(c) Prior to the delivery of the assessment roll to the tax collector in accordance with the Uniform Assessment Collection Act, the city manager shall have the authority at any time, upon his own initiative or in response to a timely filed petition from the owner of any property subject to a stormwater utility assessment, to reclassify property based upon presentation of competent and substantial evidence, and correct any error in applying the stormwater utility assessment apportionment method to any particular parcel of property not otherwise requiring the provision of notice pursuant to the Uniform Assessment Collection Act. Any such correction shall be considered valid ab initio and shall in no way affect the enforcement of the stormwater utility assessment imposed under the provisions of this article. All requests from affected property owners for any such changes, modifications or corrections shall be referred to and processed by the city manager and not the property appraiser or tax collector.~~
- ~~(d) After the assessment roll has been delivered to the tax collector in accordance with the Uniform Assessment Collection Act, any changes, modifications or corrections shall be made in accordance with the procedures applicable to correcting errors and insolvencies on the tax roll upon timely written request and direction of the city manager.~~

(Ord. No. 96-48, § 2.12, 9-9-1996)

Sec. 54-163. Interim assessments.

An interim stormwater utility assessment shall be imposed against all property for which a certificate of occupancy is issued after finalization of the annual assessment roll adoption of the annual rate resolution. The amount of the interim stormwater utility assessment shall be calculated upon a monthly rate, which shall be 1/12 of the annual rate for such property computed in accordance with the annual rate resolution applicable for the fiscal year in which the certificate of occupancy is issued. Such monthly rate shall be imposed for each full calendar month remaining in the fiscal year. In addition to the monthly rate, the interim stormwater utility assessment shall also include an estimate of the subsequent fiscal year's stormwater utility assessment. No certificate of occupancy shall be issued until full payment of the interim stormwater utility

EXHIBIT "A"

assessment is received by the city. Issuance of the certificate of occupancy by mistake or inadvertence, and without the payment in full of the interim stormwater utility assessment, shall not relieve the owner of such property of the obligation of full payment. For the purpose of this provision, such interim stormwater utility assessment shall be deemed due and payable on the date the certificate of occupancy was issued and shall constitute a lien against such property as of that date. Such lien shall be equal in rank and dignity with the liens of all state, county, district or municipal taxes and special assessments, and superior in rank and dignity to all other liens, encumbrances, titles and claims in and to or against the real property involved and shall be deemed perfected upon the issuance of the certificate of occupancy.

(Ord. No. 96-48, § 2.13, 9-9-1996)

~~Sec. 54-164. Adoption of maximum rate resolution.~~

- ~~(a) As an alternative procedure to adoption of annual rate resolutions, set forth at section 54-158 above, the city commission may adopt a maximum rate resolution, setting forth a maximum rate for which the stormwater utility assessment may be imposed thereafter each year following adoption of the resolution unless or until the assessment is increased beyond the maximum rate so authorized or discontinued.~~
- ~~(b) The initial proceedings for the adoption of a maximum rate resolution shall be the same as for adoption of a preliminary rate resolution by the city commission as set forth at section 54-158 above, establishing, instead, the maximum assessment rate above which the assessment may not thereafter be increased without adoption of a new maximum rate resolution or annual rate resolution by the city commission.~~
- ~~(c) Notice of the adoption of such maximum assessment rate resolution shall be provided by publication and by first class mail pursuant to sections 54-154 and 54-155, above. Thereafter, notice shall be provided when and as required pursuant to Section 54-158(f), above.~~
- ~~(d) The city commission shall adopt a non-ad valorem assessment roll at a public hearing held between June 1st and September 15th if the assessment is to be increased beyond the maximum rate authorized by the adopted maximum rate resolution. At least 20 days prior to the public hearing, the city shall notice the hearing by first class mail and by publication in a newspaper generally circulated within Volusia County, as required by F.S. § 197.3632.~~
- ~~(e) By September 15th of each year, the mayor or his or her designee shall certify the non-ad valorem assessment roll on compatible electronic medium to the tax collector. The city shall post the non-ad valorem assessment for each parcel on the roll. If the assessment is to be collected for a period of more than one year, or is to be amortized over a number of years, the city commission shall so specify and shall not be required to annually adopt the non-ad valorem assessment roll.~~

(Ord. No. 16-02, § 2, 8-19-2002)

Secs. 54-165—54-185. Reserved.

EXHIBIT "A"

DIVISION 3. COLLECTION AND USE

Sec. 54-186. Method of collection.

- (a) Unless otherwise directed by the city commission, the stormwater utility assessments shall be collected pursuant to the uniform method provided in the Uniform Assessment Collection Act; and the city shall comply with all applicable provisions of the Uniform Assessment Collection Act. ~~Any hearing or notice required by this article may be combined with any other hearing or notice required by the Uniform Assessment Collection Act.~~
- (b) The amount of a stormwater utility assessment to be collected using the uniform method pursuant to the Uniform Assessment Collection Act for any specific parcel of benefited property may include an amount equivalent to the payment delinquency, delinquency fees and recording costs for a prior year's assessment for a comparable service, facility, or program provided:
 - (1) The collection method used in connection with the prior year's assessment did not employ the use of the uniform method of collection authorized by the Uniform Assessment Collection Act;
 - (2) Notice is provided to the owner as required under the Uniform Assessment Collection Act; and
 - (3) Any lien on the affected parcel for the prior year's assessment is supplanted and transferred to such stormwater utility assessment upon certification of a non-ad-valorem roll to the tax collector by the city.

(Ord. No. 96-48, § 3.01, 9-9-1996)

Sec. 54-187. Alternative method of collection.

- (a) In lieu of utilizing the Uniform Assessment Collection Act, the city may elect to collect the stormwater utility assessments by any other method authorized by law or under the alternative collection method provided by this section.
- (b) The city shall provide stormwater utility assessment bills by first class mail to the owner of each affected parcel of property, other than government property. The bill or accompanying explanatory material shall include:
 - (1) A brief explanation of the stormwater utility assessment;
 - (2) A description of the unit of measurement used to determine the amount of the stormwater utility assessment;
 - (3) The number of units contained within the parcel;
 - (4) The total amount of the stormwater utility assessment imposed against the parcel for the appropriate period;
 - (5) The location at which payment will be accepted;

EXHIBIT "A"

- (6) The date on which the stormwater utility assessment is due; and
 - (7) A statement that the stormwater utility assessment constitutes a lien against assessed property equal in rank and dignity with the liens of all state, county, district or municipal taxes and other non-ad-valorem assessments.
- (c) A general notice of the lien resulting from imposition of the stormwater utility assessments shall be recorded in the official records of the county. Nothing in this subsection shall be construed to require that individual liens or releases be filed in the official records.
- (d) The city shall have the right to foreclose and collect all delinquent stormwater utility assessments in the manner provided by law for the foreclosure of mortgages on real property or appoint or retain an agent to institute such foreclosure and collection proceedings. A stormwater utility assessment shall become delinquent if it is not paid within 30 days from the date any installment is due. The city or its agent shall notify any property owner who is delinquent in payment of his stormwater utility assessment within 60 days from the date such assessment was due. Such notice shall state in effect that the city or its agent will either:
- (1) Initiate a foreclosure action or suit in equity and cause the foreclosure of such property subject to a delinquent stormwater utility assessment in a method provided by law for foreclosure of mortgages on real property; or
 - (2) Cause an amount equivalent to the delinquent stormwater utility assessment, not previously subject to collection using the uniform method under the Uniform Assessment Collection Act, to be collected on the tax bill for a subsequent year.
- (e) All costs, fees and expenses, including reasonable attorney's fees and title search expenses, related to any foreclosure action as described in this section shall be included in any judgment or decree rendered in the action. At the sale pursuant to decree in any such action, the city may be the purchaser to the same extent as any person. The city or its agent may join in one foreclosure action the collection of stormwater utility assessments against any or all property assessed in accordance with the provisions of this article. All delinquent owners whose property is foreclosed shall be liable for an apportioned amount of reasonable costs and expenses incurred by the city and its agents, including reasonable attorney's fees, in collection of such delinquent stormwater utility assessments and any other costs incurred by the city as a result of such delinquent stormwater utility assessments; and the costs shall be collectible as a part of or in addition to the costs of the action.
- (f) In lieu of foreclosure, any delinquent stormwater utility assessment and the costs, fees and expenses attributable to the assessment, may be collected pursuant to the Uniform Assessment Collection Act; however:
- (1) Notice must be provided to the owner in the manner required by the Uniform Assessment Collection Act and this article; and
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EXHIBIT "A"

- (2) Any existing lien of record on the affected parcel for the delinquent stormwater utility assessment must be supplanted by the lien resulting from certification of the assessment roll, as applicable, to the tax collector.
- (g) Notwithstanding the city's use of an alternative method of collection, the city manager shall have the same power and authority to correct errors and omissions as provided to him or county officials in section 54-162.
- (h) Any city commission action required in the collection of stormwater utility assessments may be by resolution.
- (Ord. No. 96-48, § 3.02, 9-9-1996)

Sec. 54-188. Government property.

- ~~(a) If stormwater utility assessments are imposed against government property, the city shall provide stormwater utility assessment bills by first class mail to the owner of each affected parcel of government property. The bill or accompanying explanatory material shall include:~~
- ~~(1) A brief explanation of the stormwater utility assessment;~~
 - ~~(2) A description of the unit of measurement used to determine the amount of the stormwater utility assessment;~~
 - ~~(3) The number of units contained within the parcel;~~
 - ~~(4) The total amount of the parcel's stormwater utility assessment for the appropriate period;~~
 - ~~(5) The location at which payment will be accepted; and~~
 - ~~(6) The date on which the stormwater utility assessment is due.~~
- ~~(b) Stormwater utility assessments imposed against government property shall be due on the same date as all other stormwater utility assessments and, if applicable, shall be subject to the same discounts for early payment.~~
- ~~(c) A stormwater utility assessment shall become delinquent if it is not paid within 30 days from the date any installment is due. The city shall notify the owner of any government property that is delinquent in payment of its stormwater utility assessment within 60 days from the date such assessment was due. Such notice shall state that the city will initiate a mandamus or other appropriate judicial action to compel payment.~~
- ~~(d) All costs, fees and expenses, including reasonable attorney's fees and title search expenses, related to any mandamus or other action as described in this section shall be included in any judgment or decree rendered in such action. All delinquent owners of government property against which a mandamus or other appropriate action is filed shall be liable for an apportioned amount of reasonable costs and expenses incurred by the city, including reasonable attorney's fees, in collection of such delinquent stormwater utility assessments and any other costs incurred by the~~

EXHIBIT "A"

~~city as a result of such delinquent stormwater utility assessments; and the assessments shall be collectible as a part of or in addition to the costs of the action.~~

- ~~(e) As an alternative, a stormwater utility assessment imposed against government property may be collected as a surcharge on a utility bill provided to such government property in periodic installments with a remedy of a mandamus action in the event of nonpayment. The city commission may contract for such billing services with any utility, whether or not such utility is owned by the city.~~

~~(Ord. No. 96-48, § 3.03, 9-9-1996)~~

Sec. 54-189. Stormwater utility fee credits.

- (a) Properties that currently operate and maintain an approved stormwater management system that is shown to reduce stormwater runoff and improve the quality of stormwater runoff are eligible for a reduction in the stormwater utility fee in the form of a credit. Stormwater utility customers with property meeting the criteria provided in this section may receive a stormwater utility fee credit of up to, but not exceeding, 35 percent on the fee for the subject property if such property is non-land locked, and 50 percent on the fee for the subject property if such property is land locked. For purposes of this credit, the term non-land locked shall refer to properties that have the ability to discharge off-site with excess stormwater, and it retains a 25 year, 24-hour, storm event on-site before it is allowed to discharge off-site. For purposes of this credit, the term land locked shall refer to properties that have no ability to discharge off-site with any excess stormwater to a lake, drainage ditch, canal, or other water body, and it retains a 100 year, 24-hour, storm event on-site.
- (b) In order to qualify for a utility fee credit as set forth above, the property owner must demonstrate one of the following:
- (1) The stormwater management system has been permitted by the St. Johns River Water Management District or the Florida Department of Environmental Protection and proof of such permitting is submitted to the city; or
 - (2) The subject property is serviced by an on-site stormwater management system that reduces stormwater runoff and improves the quality of stormwater runoff, and such facility is operated and maintained in accordance with standard practices in the industry. Determination of qualification for such credit shall reasonably be made by the city manager or designee based upon an examination of the site, and an affidavit of the property owner in a form acceptable to the city attorney, which includes a statement indicating that the stormwater management system was permitted by the St. Johns River Water Management District or the Florida Department of Environmental Protection, and was built in conformance with such permit, or that was built in accordance with the then current requirements or standards in effect at the time of construction without a permit, and that the stormwater management system has been operated and maintained in accordance with standard practices

EXHIBIT "A"

since placed in operation. It is acknowledged by the city that as to certain properties, such permitting was not in effect at the time of construction. Credits permitted under this subsection (2) shall be a maximum of 35 percent.

- (3) Once a qualification for a utility fee credit is established, the credit can continue unless the city becomes aware that the on-site stormwater management system has been removed, modified, or discontinued, or that the on-site stormwater management system has not been adequately maintained, or if it is ineffective to prevent flooding on site or off-site, or excessive flowing of water off the property it serves. No less than 90 days prior to the revocation of a utility fee credit, the property owner will be notified of corrective actions needed by certified mail, and shall be given 60 days to perform the required corrective actions. The property owner shall notify the city when the corrective action is complete and the city shall make a determination and notify the property owner as to the adequacy of the corrective action. Any appeal from a decision to revoke the utility fee credit shall be made in writing to the city manager no later than either ten days after the date set for completion of the corrective action, if no corrective action was taken or if it was not completed, or ten days after notification to the property owner that the corrective action taken was insufficient to maintain the credit. Revocation of the credit shall be stayed pending completion of an appeal. The decision of the city manager on the appeal shall be final, with any further appeal to a court of competent jurisdiction.
- (4) Credit application and affidavit forms shall be available from the city upon request or can be downloaded from the city website.
- (5) After the effective date of this Ordinance No. 14-2016, a 35 percent or 50 percent credit, as applicable, shall be granted to new construction at the time of the issuance of a certificate of occupancy if the newly installed stormwater management system servicing the property was permitted by the St. Johns River Water Management District or the Florida Department of Environmental Protection, and construction of the stormwater system was in compliance with such permit.

(Ord. No. 14-2016, § 1, 10-3-2016)

Secs. 54-190—54-220. Reserved.

ARTICLE IV. STREET LIGHTING

DIVISION 1. GENERALLY

Sec. 54-221. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

EXHIBIT "A"

~~*Annual rate resolution means the resolution described in section 54-253, establishing the rate at which a street lighting assessment for a specific fiscal year will be computed. The final assessment resolution shall constitute the annual rate resolution for the initial fiscal year in which a street lighting assessment is imposed or reimposed.*~~

~~*Assessed property means all parcels of land included on the assessment roll that receive a special benefit from the delivery of the street lighting services, programs or facilities identified in the initial assessment resolution or the preliminary rate resolution.*~~

~~*Assessment roll means the special assessment roll relating to a street lighting assessment approved by a final assessment resolution pursuant to section 54-251 or an annual rate resolution pursuant to section 54-253.*~~

~~*Building means any structure, whether temporary or permanent, built for support, shelter or enclosure of persons, chattel or property of any kind. This term shall include mobile homes or any vehicles serving in any way the function of a building.*~~

~~*Certificate of occupancy means the written certification issued by the city that a building is ready for occupancy for its intended use. For the purposes of this article, a setup permit or its equivalent issued for a mobile home shall be considered a certificate of occupancy.*~~

~~*Final assessment resolution means the resolution described in section 54-251, which shall confirm, modify or repeal the initial assessment resolution and which shall be the final proceeding for the initial imposition of street lighting assessments.*~~

~~*Fiscal year means that period commencing October 1 of each year and continuing through the next succeeding September 30, or such other period as may be prescribed by law as the fiscal year for the city.*~~

~~*Government property means property owned by the United States of America or any of its agencies, a sovereign state or nation, the State of Florida or any of its agencies, a county, a special district or a municipal corporation.*~~

~~*Initial assessment resolution means the resolution described in section 54-247, which shall be the initial proceeding for the identification of the street lighting assessed cost for which an assessment is to be made and for the imposition of a street lighting assessment.*~~

~~*Owner means the person reflected as the owner of assessed property on the tax roll.*~~

~~*Person means any individual, partnership, firm, organization, corporation, association or any other legal entity, whether singular or plural, masculine or feminine, as the context may require.*~~

~~*Preliminary rate resolution means the resolution described in section 54-253 initiating the annual process for updating the assessment roll and directing the reimposition of street lighting assessments pursuant to an annual rate resolution.*~~

~~*Property appraiser means the property appraiser of the county.*~~

EXHIBIT "A"

Street lighting assessed cost means the amount determined by the city commission to be assessed in any fiscal year to fund all or any portion of the cost of the provision of street lighting services, facilities or programs, which provide a special benefit to assessed property, and shall include but not be limited to the following components:

- (1) The cost of physical construction, reconstruction or completion of any required facility or improvement.
- (2) The costs incurred in any required acquisition or purchase.
- (3) The cost of all labor, materials, machinery and equipment.
- (4) The cost of fuel, parts, supplies, maintenance, repairs and utilities.
- (5) The cost of computer services, data processing and communications.
- (6) The cost of all lands and interest in the land, leases, property rights, easements and franchises of any nature whatsoever.
- (7) The cost of any indemnity or surety bonds and premiums for insurance.
- (8) The cost of salaries, volunteer pay, workers' compensation insurance, or other employment benefits.
- (9) The cost of uniforms, training, travel and per diem.
- (10) The cost of construction plans and specifications, surveys and estimates of costs.
- (11) The cost of engineering, financial, legal and other professional services.
- (12) The costs of compliance with any contracts or agreements entered into by the city to provide street lighting services.
- (13) All costs associated with the structure, implementation, collection and enforcement of the street lighting assessments, including any service charges of the tax collector, or property appraiser and amounts necessary to offset discounts received for early payment of street lighting assessments pursuant to the Uniform Assessment Collection Act or for early payment of street lighting assessments collected pursuant to section 54-282.
- (14) All other costs and expenses necessary or incidental to the acquisition, provision or construction of street lighting services, facilities or programs, and such other expenses as may be necessary or incidental to any related financing authorized by the city commission by subsequent resolution.
- (15) A reasonable amount for contingency and anticipated delinquencies and uncollectible street lighting assessments; and reimbursement to the city or any other person for any moneys advanced for any costs incurred by the city or such person in connection with any of the foregoing components of street lighting assessed cost. If the city also imposes an impact fee upon new growth or development for street lighting related capital improvements, the street

EXHIBIT "A"

lighting assessed cost shall not include costs attributable to capital improvements necessitated by new growth or development.

Street lighting assessment means a special assessment lawfully imposed by the city against assessed property to fund the street lighting assessed cost imposed to fund all or any portion of the cost of the provision of street lighting services, facilities or programs providing a special benefit to property as a consequence of possessing a logical relationship to the value, use or characteristics of property identified in the initial assessment resolution or the preliminary rate resolution.

~~*Tax collector* means the tax collector of the county.~~

~~*Tax roll* means the real property ad valorem tax assessment roll maintained by the property appraiser for the purpose of the levy and collection of ad valorem taxes.~~

~~*Uniform Assessment Collection Act* means F.S. §§ 197.3632 and 197.3635, or any successor statutes authorizing the collection of non-ad-valorem assessments on the same bill as ad valorem taxes, and any applicable regulations promulgated under such statutes.~~

(Ord. No. 96-47, § 1.01, 9-9-1996)

Cross reference(s)—Definitions generally, § 1-2.

Sec. 54-222. General findings.

It is ascertained, determined and declared that:

- (1) Pursuant to Fla. Const., art. VIII, § 2(b), and F.S. §§ 166.021 and 166.041, the city commission has all powers of local self-government necessary to perform municipal functions and render municipal services except when prohibited by law; and such power may be exercised by the enactment of legislation in the form of city ordinances.
- (2) The city commission may exercise any governmental, corporate or proprietary power for a municipal purpose except when expressly prohibited by law; and the city commission may legislate on any subject matter on which the state legislature may act, except those subjects described in F.S. § 166.021(3)(a)—(d). The subject matter of F.S. § 166.021(3)(a)—(d), are not relevant to the imposition of assessments related to street lighting services, facilities or programs of the city.
- (3) The purpose of this article is to:
 - a. Provide procedures and standards for the imposition of street lighting assessments in numerous districts throughout the city under the general home rule powers of a municipality to impose special assessments;
 - b. Authorize a procedure for the funding of street lighting services, facilities or programs providing special benefits to property within the city; and

EXHIBIT "A"

- c. Legislatively determine the special benefit provided to assessed property from the provision of street lighting.
- (4) The annual street lighting assessments to be imposed pursuant to this article shall constitute non-ad-valorem assessments within the meaning and intent of the Uniform Assessment Collection Act.
- (5) The street lighting assessment imposed pursuant to this article is imposed by the city, not the county board of county commissioners, property appraiser or tax collector. Any activity of the property appraiser or tax collector under the provisions of this article shall be construed as ministerial.

(Ord. No. 96-47, § 1.03, 9-9-1996)

Sec. 54-223. Legislative determinations of special benefit.

It is ascertained and declared that the street lighting services, facilities and programs of the city provide a special benefit to assessed property within the several street lighting districts in the city based upon the following legislative determinations:

- (1) It is in the best interests of the city and of the occupants and users of property within the several street lighting districts in the city to continue and reestablish such districts as were previously created by the county or the city and to create new street lighting districts for the purpose of providing streetlights;
- (2) The provision of streetlights within the special street lighting districts is a public benefit accruing solely to the lands described within the districts, and such benefit will not accrue to owners of property outside such districts; and
- (3) The provision of streetlights within the special street lighting districts provides greater safety to the occupants and users of the properties within the districts and stabilizes and reduces insurance rates and enhances property values for occupants and users of the properties assessed for such services.

(Ord. No. 96-47, § 1.04, 9-9-1996)

Sec. 54-224. Applicability.

This article and the city's authority to impose assessments pursuant to this article shall be applicable throughout the city.

(Ord. No. 96-47, § 4.01, 9-9-1996)

Sec. 54-225. Alternative method.

- (a) This article shall be deemed to provide an additional and alternative method for the doing of the things authorized by this article and shall be regarded as supplemental and additional to powers conferred by other laws, and shall not be regarded as in derogation of any powers now existing or that may come into existence. This

EXHIBIT "A"

article, being necessary for the welfare of the inhabitants of the city, shall be liberally construed to effect its purposes.

- (b) Nothing in this article shall preclude the city commission from directing and authorizing, by resolution, the combination with each other of any:
 - (1) Supplemental or additional notice deemed proper, necessary or convenient by the city;
 - (2) Notice required by this article; or
 - (3) Notice required by law, including the Uniform Assessment Collection Act.

(Ord. No. 96-47, § 4.02, 9-9-1996)

Secs. 54-226—54-245. Reserved.

DIVISION 2. ANNUAL ASSESSMENTS

Sec. 54-246. General authority.

- (a) The city commission is authorized to impose an annual street lighting assessment to fund all or any portion of the street lighting assessed cost upon benefited property at a rate of assessment based on the special benefit accruing to such property from the city's provision of street lighting services, facilities or programs. All street lighting assessments shall be imposed in conformity with the procedures set forth in this division.
- (b) The amount of the street lighting assessment imposed in a fiscal year against a parcel of assessed property shall be determined pursuant to an apportionment methodology based upon a classification of property designed to provide a fair and reasonable apportionment of the street lighting assessed cost among properties on a basis reasonably related to the special benefit provided by street lighting services, facilities or programs funded with assessment proceeds. ~~Nothing contained in this section shall be construed to require the imposition of street lighting assessments against government property.~~

(Ord. No. 96-47, § 2.01, 9-9-1996)

Sec. 54-247. Initial proceedings.

The initial proceeding for the imposition of a street lighting assessment shall be the adoption of an initial assessment resolution by the city commission:

- (1) Containing a brief and general description of the street lighting services, facilities or programs to be provided;
- (2) Estimating the street lighting assessed cost to be assessed;
- (3) Describing the method of apportioning the street lighting assessed cost and the computation of the street lighting assessment for specific properties;

EXHIBIT "A"

- (4) Providing a summary description of the parcels of property (conforming to the description contained on the tax roll) located within the city that receive a special benefit from the provision of street lighting services, facilities or programs, or describing a specific geographic area in which such service, facility or program will be provided;
- (5) Establishing an assessment rate for the upcoming fiscal year; and
- (6) Directing the city manager to:
 - a. Prepare the initial assessment roll, as required by section 54-248;
 - b. Publish the notice required by section 54-249; and
 - c. Mail the notice required by section 54-250, using information then available from the tax roll.

(Ord. No. 96-47, § 2.02, 9-9-1996)

Sec. 54-248. Initial assessment roll.

- (a) The city manager shall prepare or direct the preparation of the initial assessment roll, which shall contain the following:
 - (1) A summary description of all assessed property conforming to the description contained on the tax roll.
 - (2) The name of the owner of the assessed property.
 - (3) The amount of the street lighting assessment to be imposed against each such parcel of assessed property.
- (b) The initial assessment roll shall be retained by the city manager and shall be open to public inspection. The foregoing shall not be construed to require that the assessment roll be in printed form if the amount of the street lighting assessment for each parcel of property can be determined by use of a computer terminal available to the public.

(Ord. No. 96-47, § 2.03, 9-9-1996)

Sec. 54-249. Notice by publication.

Upon completion of the initial assessment roll, the city manager shall publish or direct the publication of once in a newspaper of general circulation within the city a notice stating that at a meeting of the city commission on a certain day and hour, not earlier than 20 calendar days from such publication, which meeting shall be a regular, adjourned or special meeting, the city commission will hear objections of all interested persons to the final assessment resolution, which shall establish the rate of assessment and approve the initial assessment roll. The published notice shall conform to the requirements set forth in the Uniform Assessment Collection Act. Such notice shall include:

EXHIBIT "A"

- (1) A geographic depiction of the property subject to the street lighting assessment;
- (2) A brief and general description of the street lighting services, facilities or programs to be provided;
- (3) The rate of assessment;
- (4) The procedure for objecting provided in section 54-251;
- (5) The method by which the street lighting assessment will be collected; and
- (6) A statement that the initial assessment roll is available for inspection at the office of the city clerk and that all interested persons may ascertain the amount to be assessed against a parcel of assessed property at the office of the city clerk.

(Ord. No. 96-47, § 2.04, 9-9-1996)

Sec. 54-250. Notice by mail.

In addition to the published notice required by section 54-249, the city manager shall provide or direct the provision of notice of the proposed street lighting assessment by first class mail to the owner of each parcel of property (except government property) subject to the street lighting assessment. Such notice shall include:

- (1) The purpose of the street lighting assessment;
- (2) The rate of assessment to be levied against each parcel of property;
- (3) The unit of measurement applied to determine the street lighting assessment;
- (4) The number of such units contained in each parcel of property;
- (5) The total revenue to be collected by the city from the street lighting assessment;
- (6) A statement that failure to pay the street lighting assessment will cause a tax certificate to be issued against the property or foreclosure proceedings to be instituted, either of which may result in a loss of title to the property;
- (7) A statement that all affected owners have a right to appear at the hearing and to file written objections with the city commission within 20 days of the notice; and
- (8) The date, time and place of the hearing.

The mailed notice shall conform to the requirements set forth in the Uniform Assessment Collection Act. Notice shall be mailed at least 20 calendar days prior to the hearing to each owner at such address as is shown on the tax roll. Notice shall be deemed mailed upon delivery to the possession of the United States Postal Service. The city manager may provide proof of such notice by affidavit. Failure of the owner to receive such notice due to mistake or inadvertence shall not affect the validity of the

EXHIBIT "A"

assessment roll nor release or discharge any obligation for payment of a street lighting assessment imposed by the city commission pursuant to this article.

(Ord. No. 96-47, § 2.05, 9-9-1996)

Sec. 54-251. Adoption of final assessment resolution.

At the time named in the notice pursuant to section 54-250 or to which an adjournment or continuance may be taken by the city commission, the city commission shall receive any written objections of interested persons and may then, or at any subsequent meeting of the city commission, adopt the final assessment resolution, which shall:

- (1) Confirm, modify or repeal the initial assessment resolution with such amendments, if any, as may be deemed appropriate by the city commission;
- (2) Establish the rate of assessment to be imposed in the upcoming fiscal year;
- (3) Approve the initial assessment roll, with such amendments as it deems just and right; and
- (4) Determine the method of collection.

The adoption of the final assessment resolution by the city commission shall constitute a legislative determination that all parcels assessed derive a special benefit from the street lighting services, facilities or programs to be provided or constructed and a legislative determination that the street lighting assessments are fairly and reasonably apportioned among the properties that receive the special benefit. All objections to the final assessment resolution shall be made in writing and filed with the city manager at or before the time or adjourned time of such hearing. The final assessment resolution shall constitute the annual rate resolution for the initial fiscal year in which street lighting assessments are imposed or reimposed under this article.

(Ord. No. 96-47, § 2.06, 9-9-1996)

Sec. 54-252. Effect of final assessment resolution.

The street lighting assessments for the initial fiscal year shall be established upon adoption of the final assessment resolution. The adoption of the final assessment resolution shall be the final adjudication of the issues presented (including but not limited to the determination of special benefit and fair apportionment to the assessed property, the method of apportionment and assessment, the initial rate of assessment, the initial assessment roll, and the levy and lien of the street lighting assessments), unless proper steps shall be initiated in a court of competent jurisdiction to secure relief within 20 days from the date of the city commission action on the final assessment resolution. The initial assessment roll, as approved by the final assessment resolution, shall be delivered to the tax collector, as required by the Uniform Assessment Collection Act, or if the alternative method described in section 54-282 is used to collect the street

EXHIBIT "A"

lighting assessments, such other official as the city commission by resolution shall designate.

(Ord. No. 96-47, § 2.07, 9-9-1996)

Sec. 54-253. Adoption of annual rate resolution.

- (a) The city commission shall adopt an annual rate resolution during its budget adoption process for each fiscal year following the initial fiscal year for which a street lighting assessment is imposed under this article.
 - ~~(b) The initial proceedings for the adoption of an annual rate resolution shall be the adoption of a preliminary rate resolution by the city commission:
 - ~~(1) Containing a brief and general description of the street lighting services, facilities or programs to be provided;~~
 - ~~(2) Estimating the street lighting assessed cost to be assessed for the upcoming fiscal year;~~
 - ~~(3) Establishing the assessment rate for the upcoming fiscal year;~~
 - ~~(4) Authorizing the date, time and place of a public hearing to receive and consider comments from the public and consider the adoption of the annual rate resolution for the upcoming fiscal year; and~~
 - ~~(5) Directing the city manager to:
 - ~~a. Update the assessment roll;~~
 - ~~b. Provide notice by publication and first class mail to affected owners in the event circumstances described in subsection (f) of this section so require; and~~
 - ~~c. Directing and authorizing any supplemental or additional notice deemed proper, necessary or convenient by the city.~~~~~~
 - (c) The annual rate resolution shall:
 - (1) Establish the rate of assessment to be imposed in the upcoming fiscal year; and
 - (2) Approve the assessment roll for the upcoming fiscal year with such adjustments as the city commission deems just and right.
- ~~The assessment roll shall be prepared in accordance with the method of apportionment set forth in the initial assessment resolution, together with modifications, if any, and as confirmed in the final assessment resolution or as provided in the preliminary rate resolution.~~
- (d) Nothing in this section shall preclude the city commission from providing annual notification to all owners of assessed property in the manner provided in section 54-249 or 54-250.

EXHIBIT "A"

(e) Nothing in this section shall preclude the city commission from establishing by resolution a maximum rate of assessment provided that notice of such maximum assessment rate is provided pursuant to sections 54-249 and 54-250.

~~(f) If:~~

~~(1) The proposed street lighting assessment for any fiscal year exceeds the maximum rate of assessment adopted by the city commission and included in notice previously provided to the owners of assessed property pursuant to sections 54-249 and 54-250;~~

~~(2) The method of apportionment is changed or the purpose for which the street lighting assessment is imposed is substantially changed from that represented by notice previously provided to the owners of assessed property pursuant to sections 54-249 and 54-250;~~

~~(3) Assessed property is reclassified in a manner that results in an increased street lighting assessment from that represented by notice previously provided to the owners of assessed property pursuant to sections 54-249 and 54-250; or~~

~~(4) An assessment roll contains assessed property that was not included on the assessment roll approved for the prior fiscal year;~~

~~notice shall be provided by publication and first class mail to the owners of such assessed property. Such notice shall substantially conform with the notice requirements set forth in sections 54-249 and 54-250 and inform the owner of the date, time and place for the adoption of the annual rate resolution. The failure of the owner to receive such notice due to mistake or inadvertence shall not affect the validity of the assessment roll nor release or discharge any obligation for payment of a street lighting assessment imposed by the city commission pursuant to this article.~~

(g) As to any assessed property not included on an assessment roll approved by the adoption of the final assessment resolution or a prior year's annual rate resolution, the adoption of the succeeding annual rate resolution shall be the final adjudication of the issues presented as to such assessed property (including but not limited to the determination of special benefit and fair apportionment to the assessed property, the method of apportionment and assessment, the rate of assessment, the assessment roll, and the levy and lien of the street lighting assessments), unless proper steps shall be initiated in a court of competent jurisdiction to secure relief within 20 days from the date of the city commission action on the annual rate resolution. Nothing contained in this subsection shall be construed or interpreted to affect the finality of any street lighting assessment not challenged within the required 20-day period for those street lighting assessments imposed against assessed property by the inclusion of the assessed property on an assessment roll approved in the final assessment resolution or any subsequent annual rate resolution.

(h) The assessment roll, as approved by the annual rate resolution, shall be delivered to the tax collector as required by the Uniform Assessment Collection Act, or if the

EXHIBIT "A"

alternative method described in section 54-282 is used to collect the street lighting assessments, such other official as the city commission by resolution shall designate. If the street lighting assessment against any property shall be sustained, reduced or abated by the court, an adjustment shall be made on the assessment roll.

(Ord. No. 96-47, § 2.08, 9-9-1996)

Sec. 54-254. Lien of street lighting assessments.

Upon the adoption of the assessment roll, all street lighting assessments shall constitute a lien against assessed property equal in rank and dignity with the liens of all state, county, district or municipal taxes and special assessments. Except as otherwise provided by law, such lien shall be superior in dignity to all other prior liens, mortgages, titles and claims, until paid. The lien for a street lighting assessment shall be deemed perfected upon adoption by the city commission of the final assessment resolution or the annual rate resolution, whichever is applicable. The lien for a street lighting assessment collected under the Uniform Assessment Collection Act shall attach to the property included on the assessment roll as of the prior January 1, the lien date for ad valorem taxes imposed under the tax roll. The lien for a street lighting assessment collected under the alternative method of collection provided in section 54-282 shall be deemed perfected upon adoption by the city commission of the final assessment resolution or the annual rate resolution, whichever is applicable, and shall attach to the property on such date of adoption.

(Ord. No. 96-47, § 2.09, 9-9-1996)

Sec. 54-255. Revisions to street lighting assessments.

If any street lighting assessment made under the provisions of this article is either in whole or in part annulled, vacated or set aside by the judgment of any court, or if the city commission is satisfied that any such street lighting assessment is so irregular or defective that it cannot be enforced or collected, or if the city commission has omitted any property on the assessment roll, which property should have been so included, the city commission may take all necessary steps to impose a new street lighting assessment against any property benefited by the street lighting assessed costs, following as nearly as may be practicable the provisions of this article; and if such second street lighting assessment is annulled, vacated or set aside, the city commission may obtain and impose other street lighting assessments until a valid street lighting assessment is imposed.

(Ord. No. 96-47, § 2.10, 9-9-1996)

Sec. 54-256. Procedural irregularities.

Any informality or irregularity in the proceedings in connection with the levy of any street lighting assessment under the provisions of this article shall not affect the validity

EXHIBIT "A"

of the assessment after its approval, and any street lighting assessment as finally approved shall be competent and sufficient evidence that such street lighting assessment was duly levied, that the street lighting assessment was duly made and adopted, and that all other proceedings adequate to such street lighting assessment were duly had, taken and performed as required by this article; and no variance from these directions shall be held material unless it be clearly shown that the party objecting was materially injured.

(Ord. No. 96-47, § 2.11, 9-9-1996)

Sec. 54-257. Correction of errors and omissions.

- (a) No act of error or omission on the part of the property appraiser, tax collector, city manager, city commission, their deputies or employees, shall operate to release or discharge any obligation for payment of a street lighting assessment imposed by the city commission under the provision of this article.
- (b) When it shall appear that any street lighting assessment should have been imposed under this article against a parcel of property specially benefited by the provision of street lighting services, facilities or programs, but that such property was omitted from the assessment roll or was not listed on the tax roll as an individual parcel of property as of the effective date of the assessment roll approved by the annual rate resolution for any upcoming fiscal year, the city commission may, upon provision of a notice by mail provided to the owner of the omitted parcel in the manner and form provided in section 54-250, impose the applicable street lighting assessment for the fiscal year in which such error is discovered, in addition to the applicable street lighting assessment due for the prior two fiscal years. Such street lighting assessment shall constitute a lien against assessed property equal in rank and dignity with the liens of all state, county, district or municipal taxes and special assessments, and superior in rank and dignity to all other prior liens, mortgages, titles and claims in and to or against the real property involved; shall be collected as provided in division 3 of this article; and shall be deemed perfected on the date of adoption of the resolution imposing the omitted or delinquent assessments.
- (c) Prior to the delivery of the assessment roll to the tax collector in accordance with the Uniform Assessment Collection Act, the city manager shall have the authority at any time, upon his own initiative or in response to a timely filed petition from the owner of any property subject to a street lighting assessment, to reclassify property based upon presentation of competent and substantial evidence, and correct any error in applying the street lighting assessment apportionment method to any particular parcel of property not otherwise requiring the provision of notice pursuant to the Uniform Assessment Collection Act. Any such correction shall be considered valid ab initio and shall in no way affect the enforcement of the street lighting assessment imposed under the provisions of this article. All requests from affected property owners for any such changes, modifications or corrections shall be

EXHIBIT "A"

referred to and processed by the city manager and not the property appraiser or tax collector.

- (d) After the assessment roll has been delivered to the tax collector in accordance with the Uniform Assessment Collection Act, any changes, modifications or corrections shall be made in accordance with the procedures applicable to correcting errors and insolvencies on the tax roll upon timely written request and direction of the city manager.

(Ord. No. 96-47, § 2.12, 9-9-1996)

Sec. 54-258. Interim assessments.

An interim street lighting assessment shall be imposed against all property for which a certificate of occupancy is issued after adoption of the annual rate resolution. The amount of the interim street lighting assessment shall be calculated upon a monthly rate, which shall be 1/12 of the annual rate for such property computed in accordance with the annual rate resolution for the fiscal year in which the certificate of occupancy is issued. Such monthly rate shall be imposed for each full calendar month remaining in the fiscal year. In addition to the monthly rate, the interim street lighting assessment shall also include an estimate of the subsequent fiscal year's street lighting assessment. No certificate of occupancy shall be issued until full payment of the interim street lighting assessment is received by the city. Issuance of the certificate of occupancy by mistake or inadvertence, and without the payment in full of the interim street lighting assessment, shall not relieve the owner of such property of the obligation of full payment. For the purpose of this provision, such interim street lighting assessment shall be deemed due and payable on the date the certificate of occupancy was issued and shall constitute a lien against such property as of that date. Such lien shall be equal in rank and dignity with the liens of all state, county, district or municipal taxes and special assessments, and superior in rank and dignity to all other liens, encumbrances, titles and claims in and to or against the real property involved and shall be deemed perfected upon the issuance of the certificate of occupancy.

(Ord. No. 96-47, § 2.13, 9-9-1996)

Sec. 54-259. Dissolution of street lighting districts.

Street lighting assessments created under the provisions of this article may be dissolved by resolution in the event a home owners association is willingly and legally able to maintain the existing street lighting district continuously in a safe and efficient manner.

(Ord. No. 02-2009, § 1, 1-20-2009)

Secs. 54-260—54-280. Reserved.

DIVISION 3. COLLECTION AND USE

Sec. 54-281. Method of collection.

- (a) Unless otherwise directed by the city commission, the street lighting assessments shall be collected pursuant to the uniform method provided in the Uniform Assessment Collection Act; and the city shall comply with all applicable provisions of the Uniform Assessment Collection Act. Any hearing or notice required by this article may be combined with any other hearing or notice required by the Uniform Assessment Collection Act.
- (b) The amount of a street lighting assessment to be collected using the uniform method pursuant to the Uniform Assessment Collection Act for any specific parcel of benefited property may include an amount equivalent to the payment delinquency, delinquency fees and recording costs for a prior year's assessment for a comparable service, facility or program provided:
 - (1) The collection method used in connection with the prior year's assessment did not employ the use of the uniform method of collection authorized by the Uniform Assessment Collection Act;
 - (2) Notice is provided to the owner as required under the Uniform Assessment Collection Act; and
 - (3) Any lien on the affected parcel for the prior year's assessment is supplanted and transferred to such street lighting assessment upon certification of a non-ad-valorem roll to the tax collector by the city.

(Ord. No. 96-47, § 3.01, 9-9-1996)

Sec. 54-282. Alternative method of collection.

- (a) In lieu of utilizing the Uniform Assessment Collection Act, the city may elect to collect the street lighting assessments by any other method authorized by law or under the alternative collection method provided by this section.
- (b) The city shall provide street lighting assessment bills by first class mail to the owner of each affected parcel of property, other than government property. The bill or accompanying explanatory material shall include:
 - (1) A brief explanation of the street lighting assessment;
 - (2) A description of the unit of measurement used to determine the amount of the street lighting assessment;
 - (3) The number of units contained within the parcel;
 - (4) The total amount of the street lighting assessment imposed against the parcel for the appropriate period;
 - (5) The location at which payment will be accepted;
 - (6) The date on which the street lighting assessment is due; and

EXHIBIT "A"

- (7) A statement that the street lighting assessment constitutes a lien against assessed property equal in rank and dignity with the liens of all state, county, district or municipal taxes and other non-ad-valorem assessments.
- (c) A general notice of the lien resulting from imposition of the street lighting assessments shall be recorded in the official records of the county. Nothing in this subsection shall be construed to require that individual liens or releases be filed in the official records.
- (d) The city shall have the right to foreclose and collect all delinquent street lighting assessments in the manner provided by law for the foreclosure of mortgages on real property or appoint or retain an agent to institute such foreclosure and collection proceedings. A street lighting assessment shall become delinquent if it is not paid within 30 days from the date any installment is due. The city or its agent shall notify any property owner who is delinquent in payment of his street lighting assessment within 60 days from the date such assessment was due. Such notice shall state in effect that the city or its agent will either:
- (1) Initiate a foreclosure action or suit in equity and cause the foreclosure of such property subject to a delinquent street lighting assessment in a method provided by law for foreclosure of mortgages on real property; or
 - (2) Cause an amount equivalent to the delinquent street lighting assessment, not previously subject to collection using the uniform method under the Uniform Assessment Collection Act, to be collected on the tax bill for a subsequent year.
- (e) All costs, fees and expenses, including reasonable attorney's fees and title search expenses, related to any foreclosure action as described in this section shall be included in any judgment or decree rendered in such action. At the sale pursuant to decree in any such action, the city may be the purchaser to the same extent as any person. The city or its agent may join in one foreclosure action the collection of street lighting assessments against any or all property assessed in accordance with the provisions of this section. All delinquent owners whose property is foreclosed shall be liable for an apportioned amount of reasonable costs and expenses incurred by the city and its agents, including reasonable attorney's fees, in collection of such delinquent street lighting assessments and any other costs incurred by the city as a result of such delinquent street lighting assessments and the costs shall be collectible as a part of or in addition to the costs of the action.
- (f) In lieu of foreclosure, any delinquent street lighting assessment and the costs, fees and expenses attributable to such assessment, may be collected pursuant to the Uniform Assessment Collection Act; however:
- (1) Notice must be provided to the owner in the manner required by the Uniform Assessment Collection Act and this article; and

EXHIBIT "A"

- (2) Any existing lien of record on the affected parcel for the delinquent street lighting assessment is supplanted by the lien resulting from certification of the assessment roll, as applicable, to the tax collector.
 - (g) Notwithstanding the city's use of an alternative method of collection, the city manager shall have the same power and authority to correct errors and omissions as provided to him or county officials in section 54-257.
 - (h) Any city commission action required in the collection of street lighting assessments may be by resolution.
- (Ord. No. 96-47, § 3.02, 9-9-1996)

Sec. 54-283. Government property.

- (a) If street lighting assessments are imposed against government property, the city shall provide street lighting assessment bills by first class mail to the owner of each affected parcel of government property. The bill or accompanying explanatory material shall include:
 - (1) A brief explanation of the street lighting assessment;
 - (2) A description of the unit of measurement used to determine the amount of the street lighting assessment;
 - (3) The number of units contained within the parcel;
 - (4) The total amount of the parcel's street lighting assessment for the appropriate period;
 - (5) The location at which payment will be accepted; and
 - (6) The date on which the street lighting assessment is due.
- (b) Street lighting assessments imposed against government property shall be due on the same date as all other street lighting assessments and, if applicable, shall be subject to the same discounts for early payment.
- (c) A street lighting assessment shall become delinquent if it is not paid within 30 days from the date any installment is due. The city shall notify the owner of any government property that is delinquent in payment of its street lighting assessment within 60 days from the date such assessment was due. Such notice shall state that the city will initiate a mandamus or other appropriate judicial action to compel payment.
- (d) All costs, fees and expenses, including reasonable attorney's fees and title search expenses, related to any mandamus or other action as described in this section shall be included in any judgment or decree rendered in such action. All delinquent owners of government property against which a mandamus or other appropriate action is filed shall be liable for an apportioned amount of reasonable costs and expenses incurred by the city, including reasonable attorney's fees, in collection of such delinquent street lighting assessments and any other costs incurred by the city

EXHIBIT "A"

as a result of such delinquent street lighting assessments; and the costs shall be collectible as a part of or in addition to the costs of the action.

- (e) As an alternative, a street lighting assessment imposed against government property may be collected as a surcharge on a utility bill provided to such government property in periodic installments, with a remedy of a mandamus action in the event of nonpayment. The city commission may contract for such billing services with any utility, whether or not such utility is owned by the city.

(Ord. No. 96-47, § 3.03, 9-9-1996)