Chapter 2 - ADMINISTRATION[1]

~~Footnotes:~~

~~--- (1) ---~~

Charter reference— Administration, art. III.

State Law reference— Municipal Home Rule Powers Act, F.S. ch. 166; public records, F.S. ch. 119.

ARTICLE I. - IN GENERAL

Sec. 2-1. - Binding letters of determination.

(a) If any person desires a written statement from the city as to his rights or status under any section of this Code, he may apply to the city commission for a binding letter of determination.

(b) Such application shall be on a form approved for such purpose by the city manager and shall be submitted to the city manager, who shall review it with the city attorney and other appropriate city personnel and present it with a recommendation at the next available city commission meeting for consideration.

(c) If, at such meeting, the city commission finds the application to be in order, it may in its discretion authorize the mayor to sign on behalf of the city a binding letter of determination containing such conditions or provisos that the city commission deems proper.

(d) Any such binding letter of determination will only be binding on the city as to the facts and circumstances existing on its date of execution, as stated in the application therefor, and such letter may be subject to modification by later changes in circumstances, ordinances or rules and regulations.

(e) If any material facts are misstated in an application for a binding letter of determination, such letter shall be void ab initio (void from the beginning).

(f) All such binding letters of determination shall contain the words "THIS IS A BINDING LETTER OF DETERMINATION," and any letter which does not contain these words shall not be a binding letter of determination.

(g) If any city official is requested by any person to sign a letter commenting on his rights or status under any Code section, such official may direct such person to apply for a binding letter of determination instead.

(h) The application fee for a binding letter of determination shall be $10.00 or such other amount as the city commission may from time to time set by resolution.

~~(Code 1981, § 1-12; Code 1995, § 2-1)~~

Sec. 2-2. Administrative Lien Search and Report Fee.

The City of Stuart shall charge a fee for provision of a lien search and report upon request for such service. This authorization specifically applies to requests for searches and reports with regard to debts owed to the City for any of the following:

1) Code Compliance penalties, fines, fees, costs and interest;

2) Water, sewer and reclaimed water utility charges, rates, fees, costs and interest;
3) Recyclable materials and solid waste penalties, charges, rates, fees, costs and interest;
4) Permit fees, penalties, fines, costs and interest owed to the City pursuant to the building codes or land development regulations adopted by the City;
5) Principal, interest, fees and costs owed to the City resulting from loans or other assistance provided by the Office of Housing and Community Development;
6) Rates, fees, costs and interest owed to the City resulting from Pre- Annexation Agreements or Municipal Services Agreements or both; and
7) Fees, costs, fines, penalties and interest due to the City resulting from security alarm systems regulations.

Administrative Lien Search and Report Fees shall be as currently established or as hereafter adopted by resolution of the City Commission from time to time in Appendix A – Fee, Rate and Charge Schedule, to this Code. Said fee will be due and payable to the City in advance of provision of the lien search and report to the requesting person or entity.

Secs. 2-~~2~~3—2-20. - Reserved.

ARTICLE II. - CITY COMMISSION[~~2~~]
~~Footnotes:~~
~~--- (2) ---~~
~~**Charter reference** — Form of government, § 2.01; mayor, § 7.09; vacancies in office, § 7.10; oath of commissioners, § 7.11; restriction on employment of elected officials, § 10.03.~~

DIVISION 1. - GENERALLY
Sec. 2-21. - Salary of commissioners.

The salary for each member of the city commission shall be as established each year in the annual budget.

~~(Code 1981, § 2-2; Code 1995, § 2-26)~~

Sec. 2-22. - Investigations by commission.

(a) A Code of Conduct for city commissioners has been established by resolution. The Code of Conduct is to be signed and acknowledged by each commissioner upon taking office and establishes guidelines for conduct that support the commission/manager form of government and proper etiquette for conduct.

(b) If a complaint is made regarding a Charter Officer, the Human Resources Director shall schedule a meeting with the other Charter Officer and describe the complaint. The notified Charter Officer shall evaluate the information and notify the individual Commissioners. No

formal disciplinary action (suspension/demotion/termination) will occur outside of a commission vote at a public meeting.

~~(a)~~(c) In order to enable the commission to fully investigate any charge against any Charter ~~o~~Officer, and to fully investigate any other matter or proceeding which the commission may deem proper, it shall have the power and authority to require the attendance of witnesses upon any hearing, investigation, proceeding or matter before it for consideration, and may issue subpoenas and compulsory process to compel the attendance of persons and the production of books, papers, documents or other evidence before it, in any case where the same might be subpoenaed or compelled to be produced in a proceeding prosecuted by the state under the provisions of general law; and to administer oaths or affirmations for the purpose of such investigations. The failure to respond to any subpoena or other process issued by the commission shall be a violation of this Code.

~~(Code 1981, § 2-4; Code 1995, § 2-27)~~

Charter reference— Powers of city commission, § 2.02.

Secs. 2-23—2-47. - Reserved.

DIVISION 2. - RULES OF PROCEDURE[~~3~~]

~~Footnotes:~~
~~(3)~~
Charter reference— Quorum and commission rules, § 7.08.

Sec. 2-48. - Meetings.

(a) ~~(a)~~ *Regular meetings.* The city commission shall hold regular meetings in the city commission chambers at ~~the~~ city hall~~, 121 S.W. Flagler Avenue, Stuart, Florida,~~ on the second and fourth Monday of each month~~. commencing at 5:30 p.m~~ The second Monday the meeting will begin at 4:00 p.m. at which time proclamations, presentations and employee appreciations will occur with a time certain of 5:30 for the remainder of the meeting. The fourth Monday meeting will start at 5:30 pm. When such day falls on a day observed by the city as a legal holiday, such meeting shall be held at the same hour and place on the next succeeding business day or the immediately following Monday. Regular meetings may be cancelled and rescheduled at the discretion of the city commission provided there shall be at least two meetings each month, except in December where there will be one meeting scheduled for the month.

~~(a)~~(b) Upon proper notice, the City Commission may also hold City Commission meetings at other locations within the City Limits when deemed appropriate by the Commission.

(b) *Special meetings.* Special meetings of the city commission shall be held in the city commission chambers at ~~the~~ city hall, or at some other location within the city which is accessible to the public, as provided in section 2.03, commission meetings, of the city Charter.

~~(Code 1981, § 2-11(a), (b); Code 1995, § 2-41; Ord. No. 2092-06, § 1, 11-27-2006)~~

Charter reference— City commission meetings, § 2.03.

Sec. 2-49. - Agenda.

The city manager shall prepare a written or electronic agenda, supplemented in writing as necessary, for all regular and special meetings of the city commission. The form of the agenda shall be determined by the city manager as approved by the city commission.

(1) *Regular meetings.* The agenda for regular meetings shall include only such matters as may be recommended for consideration by the city manager or the city commission. No matter shall be recommended by the city manager which has not been agendaed except in cases of an emergency so determined by the city commission.

a. The agenda shall be approved by the city commission at the conclusion of comments by the city manager according to the headings set forth in subsection (1)c of this section. The agenda submitted by the city manager with or without addenda may be amended by the city commission by the addition of new items prior to but not after approval of the agenda.

b. All reports, communications, ordinances, resolutions, contract documents or other matters which are to be submitted to the city commission by the city manager shall be filed with the city manager no later than 5:00 p.m. on Monday preceding the date of the regular meeting for inclusion on the agenda. This deadline may be waived in the discretion of the city manager.

c. All items on the regular meeting agenda shall be placed under the following headings in the following sequence:

1. Call to order.
2. ~~Invocation.~~Roll Call
3. Pledge of allegiance.
4. Proclamations.
5. ~~Comments from the public (concluding at 7:45 p.m.).~~
6. 5. Presentations ~~(beginning at 7:45 p.m.)~~.
7. ~~Comments from the public (until conclusion)~~.
8. 6. Comments by city commission members and by the city manager.
9. 7. Approval of the agenda.
8. Comments from the public
10. 9. Consent calendar.
11. 10. ~~Quasi-judicial hearings~~. Commission Action.
12. 11. ~~First~~ Second reading of ordinances.

~~13~~12. ~~Second~~ First reading of ordinances.

~~14. Resolutions.~~

~~15~~13. Discussion and deliberation.

~~16~~14. Adjournment.

~~17.~~ Any item on the agenda may be taken out of order by majority vote of the city commission.

(2) *Special meetings.* The agenda for a special meeting shall include only the subject matter for which a special meeting was called. The city commission shall not discuss any matter which does not appear on the agenda prepared for a special meeting.

(3) *Distribution.* Access to the agenda for commission, staff, media and the public shall be available electronically and readily accessible online as far in advance of the meeting as time will permit. ~~Each member of the city commission, the city clerk and the city attorney, as well as the news media, shall be provided a copy of the agenda as far in advance of the meeting as time will permit. A reasonable number of~~ One ~~extra~~ printed copy ~~of~~ of the agenda shall be provided for the public at the city commission meeting.

~~(Code 1981, § 2-11(c); Code 1995, § 2-42; Ord. No. 1364, § 1, 9-26-1994)~~

Sec. 2-50. - Addressing the commission.

(a) Any person desiring to address the city commission shall first secure the permission of the presiding officer. Such person shall complete a form provided by the city clerk to identify the speaker and the agenda item to be addressed. In the discretion of the presiding officer, a person who has not completed a form may be allowed to address the city commission. A person addressing the Commission should speak to the Commission and refrain from facing the audience or speaking to audience members directly.

(b) Each person recognized for the purpose of addressing the city commission shall step forward to the podium and microphone and shall give his name and address for the record before commencing his remarks. Such remarks shall be limited in duration to ~~five~~ three minutes unless a longer period of time is permitted by the presiding officer or by a majority of the city commission.

(c) All remarks shall be addressed to the city commission as a body and not to any particular city official. Questions ~~must be~~ asked of the city commission ~~to which the city commission, or any member thereof, may respond~~ should be heard and those deemed appropriate followed up upon with staff through the city manager. The city commission may request that a response be given by the city manager~~.~~.

(d) The public comment period will not be used to air personal grievances between individuals, make political endorsements or for political campaign purposes. Speakers shall address all comments to the Commissioners as a whole and not to individual Commissioners. Discussions between speakers and members of the audience shall not be allowed.

(e) This time is for receipt of public comment not debate. The Chairman or Commissioners will not enter into a dialogue with citizens. Questions from the Commissioners will be for

clarification purposes only. Public comment will not be used as a time for problem solving or reacting to comments made but, rather, for hearing the citizens for informational purposes only.

Anger, rudeness, ridicule, obscene or profane language, impatience and lack of respect for others and personal attacks are not acceptable behavior. The Mayor is responsible for maintaining order. Failure to abide by this requirement may result in the forfeiture of the speaker's right to speak.

~~(Code 1981, § 2-11(d); Code 1995, § 2-43)~~

Sec. 2-51. - Decorum.

Any person making personal, impertinent, irrelevant or slanderous remarks or who becomes boisterous while addressing the city commission or while attending the city commission meeting shall be removed from the city commission chambers at the direction of the presiding officer. The chief of police, or such member of the police department as he may designate, shall be the sergeant-at-arms of the city commission meetings. The sergeant-at-arms shall carry out all orders and instructions given by the mayor for the purpose of maintaining order and decorum at the city commission meeting. Upon instruction of the presiding officer, it shall be the duty of the sergeant-at-arms, or any of them present, to take appropriate and lawful action to maintain the order and decorum of the meeting.

(Code 1981, § 2-11(e); Code 1995, § 2-44))

Sec. 2-52. - Voting.

All action taken by the city commission shall be by three affirmative votes. Voting on ordinances, resolutions and any matter regarding the expenditure of city funds shall be by roll call. All other motions may be approved without a roll call.

(Code 1981, § 2-11(f); Code 1995, § 2-45)

Sec. 2-53. - Tie votes.

Any motion which does not result in either three "aye" or three "nay" votes (a tie vote or a 2-1, 2-0, 1-2, or 0-2 vote) shall be deemed a nullity. The matter on the floor shall remain open for further discussion and city commission action by three affirmative votes. If the matter is not resolved either by three affirmative votes or by tabling, the matter shall be automatically ~~agendaed~~ tabled ~~for~~ until the next regular meeting of the city commission.

~~(Code 1981, § 2-11(g); Code 1995, § 2-46; Ord. No. 1347, § 1, 3-28-1994)~~

Sec. 2-54. - Parliamentary rules.

The city commission shall ~~by resolution adopt parliamentary rules of procedure~~follow Robert's Rules of Order for the conduct of its meetings.

~~(Code 1981, § 2-11(g); Code 1995, § 2-47)~~

Secs. 2-55—2-81. - Reserved.

ARTICLE III. - BOARDS, COMMITTEES AND COMMMISSIONS

~~Footnotes:~~

~~--- (4) ---~~

~~**Charter reference** — Boards and committees, art. IV; canvassing board, § 7.06; charter advisory board, § 10.02.~~

DIVISION 1. - GENERALLY

Sec. 2-82. - Standing boards; applicability of regulations.

(a) The standing boards which are established by the city commission are the zoning board of adjustment, nuisance abatement board, local planning advisory board, and the Stuart independent review board. ~~community services advisory board, and the beautification committee~~ The Stuart community redevelopment agency and the Stuart housing authority are standing boards which have been created by the city commission and exist pursuant to Florida law.

(b) The regulations set forth in this article shall apply to all standing boards unless superseded by applicable ordinance or statute. Additional regulations may apply to a particular board.

(~~Code 1981, § 2-115; Code 1995, § 2-71; Ord. No. 1452, § 2, 3-25-1996; Ord. No. 2224-2011, § 1, 4-11-2011; Ord. No. 2236-2011, § 1, 10-17-2011)~~

Sec. 2-83. - Location of board meetings; clerical and legal support; compensation of members; expenses.

(a) Meetings of the standing boards shall be open to the public. Except for the city housing authority, board meetings shall be held in the city commission chambers at city hall.

(b) The city manager shall provide the clerical support necessary to enable each board to perform its duties and responsibilities. The secretary shall attend all board meetings, record the proceedings, and prepare minutes of meetings promptly thereafter. The secretary shall maintain all records of the board as public records of the city. This section does not apply to the housing authority board.

(c) The legal advisor to a standing board shall be the city attorney. The city attorney shall attend board meetings when necessary or as requested by the board.

(d) Board members shall serve without compensation.

(e) All board expenses shall be paid by the city. Expenses incurred personally by board members in the performance of board duties or responsibilities may be reimbursed by the city in the discretion of the city manager.

~~(Code 1981, § 2-116; Code 1995, § 2-72)~~

Sec. 2-84. - Members.

(a) *Appointment by city commission.* Except for the city housing authority, appointments to membership on standing city boards shall be made by the city commission. Each commissioner shall select an appointment for each board, which will be ratified by the entire board. At large board members shall be selected by the entire commission via staff recommendation.

(b) *Qualifications; membership on more than one standing board prohibited~~; exception~~.* To be qualified for appointment, a prospective appointee will have to meet the requirements of each board's bylaws. ~~shall be a resident of the city or the owner of property within the city. A member of the city independent review board may be a member of a second standing board, otherwise, no person shall be a member of more than one standing board at any time.~~ No elected official may serve on any board. ~~Additional qualifications may be ordained or be otherwise applicable for a particular board.~~

(c) *Members to maintain qualifications throughout terms.* A board member shall maintain all applicable appointment qualifications during the term of membership.

~~(Code 1981, § 2-117; Code 1995, § 2-73; Ord. No. 1999, § 1, 8-9-2004)~~

Sec. 2-85. - Certificate of appointment; orientation.

(a) Upon appointment by the city commission, the city clerk shall ~~issue a certificate of appointment to~~ notify the appointee~~. which shall specifically state the term of appointment.~~

(b) The city clerk shall also provide to the appointee information regarding the then current provisions of the Florida Government-in-the-Sunshine and the Code of Ethics for Public Officers and Employees statute laws.

(c) The secretary of the board to which an appointment has been made shall provide to an appointee such information as is appropriate to adequately advise the member of the duties and responsibilities of board membership.

~~(Code 1981, § 2-118; Code 1995, § 2-74)~~

Sec. 2-86. - Rules of procedure; quorum; voting; attendance.

(a) ~~Standing boards~~The City Commission shall adopt bylaws for the conduct of the business of the standing boards. In accordance with ~~its~~ the bylaws, the boards shall annually select ~~an~~ officers to preside over board meetings.

(b) A quorum of a standing board shall be a majority of the total number of board members. Board action shall be taken by a majority vote of a quorum.

(c) Members shall faithfully attend and participate at meetings of the board. Any member who fails to attend three successive board meetings shall be deemed to have resigned from the board and a vacancy shall be deemed to exist.

~~(Code 1981, § 2-119; Code 1995, § 2-75)~~

Sec. 2-87. - Removal of board members without cause; vacancies; holding over.

(a) Members on standing city boards shall serve at the pleasure of the city commission. A board member may be removed from membership by the city commission without cause and without notice and hearing.

(b) A vacancy shall be deemed to exist upon the resignation, death, or removal of a member. Vacancies however created shall be promptly reported to the city manager by the board secretary. Vacancies shall be filled by the city commission in the same manner as original appointments as soon as is practicable.

(c) Board members shall be appointed to fill specific ~~two~~one-year terms of board membership. The City Commission shall appoint the members of each board during its annual reorganization meeting.

(d) ~~Upon the expiration of a term, a member shall continue to hold office until a successor has been appointed.~~ Term Limit; no appointee shall serve longer than eight consecutive years on any one board. Current at large members may serve until October of 2022 and new at large members will become subject to the established term limit. At large members shall be selected by the City Commission from qualified applications which have been submitted to the City Clerk. The At Large positions shall serve two year terms which shall be staggered.

~~(Code 1981, § 2-120; Code 1995, § 2-76)~~

Secs. 2-88—2-95. - Reserved.

DIVISION 2. - STUART INDEPENDENT REVIEW BOARD

Sec. 2-96. - Definitions.

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

Affected department means the department of city government in which the employee whose conduct is being reviewed is employed.

Board means the Stuart Independent Review Board.

Citizen complaint means a written and signed allegation of improper conduct of an employee of the city made by any person who is not an officer or employee of the city.

Employee means any person employed by the city except a member of the city commission, the city manager, the city attorney~~, and the city auditor~~.

Suspension means a temporary cessation of work of an employee mandated by the city manager for disciplinary reasons either with or without pay.

Written reprimand means a written criticism by the city manager or department director of the conduct of an employee.

~~(Code 1981, § 2-131; Code 1995, § 2-86)~~

Sec. 2-97. - Created.

The Stuart Independent Review Board is hereby created for the purpose of providing independent public review of the conduct of employees of the city.

~~(Code 1981, § 2-132; Code 1995, § 2-87)~~

Sec. 2-98. - Membership.

(a) The independent review board shall consist of ~~seven~~ five members appointed by the city commission who shall serve without compensation. ~~Three of the initial appointees shall serve a term of one year and the remaining four shall serve a term of two years. Thereafter all terms shall be two years.~~

(b) In making its appointments to the board the city commission shall consider the racial, ethnic and cultural characteristics of the residents of the city. A prospective member shall:

(1) Be not less than 18 years of age;

(2) Be a current resident of Stuart~~or hold employment within the city for at least one year prior to appointment~~;

(3) Never have been convicted of a crime;

(4) Not be an employee of the city;

(5) Not be a candidate for elective office; and

(6) Not be a party in any pending litigation against the city or any employee of the city.

~~(c) All appointees to the board shall complete a training program provided by the city prior to participating in a review as provided in this article.~~

(~~d~~c) A board member may be removed by majority vote of the city commission for failing to maintain the qualifications for membership or for failing to attend three consecutive meetings of the board or four such meetings in a calendar year.

(~~e~~d) A vacancy on the board shall be filled by the city commission within 60 days.

(Code 1981, § 2-133; Code 1995, § 2-88)

Sec. 2-99. - Meetings.

(a) All meetings of the independent review board shall be held at the city hall at the call of the chairperson or at such times as the board elects. The board shall meet as needed but not less frequently than every three months.

(b) At its first meeting the board shall elect a chairperson and a vice-chairperson to serve for a term of one year. ~~The board shall adopt bylaws for the conduct of its business.~~

(c) A quorum of the board is ~~four~~ three members. All action of the board shall be taken by ~~four~~ three or more affirmative votes.

(d) The city manager shall provide all necessary clerical assistance to the board. Board meetings shall be tape recorded and minutes summarizing each meeting shall be promptly prepared. An

agenda for each meeting of the board shall be prepared not less than 48 hours in advance of the meeting.

(e) The city attorney shall be legal advisor to the board.

~~(Code 1981, § 2-134; Code 1995, § 2-89)~~

Sec. 2-100. - Powers and duties.

(a) The independent review board shall review all completed investigations conducted by the city manager or designee of citizen complaints including ~~proposed~~ disciplinary action, if any. ~~The board may require that the city manager promptly provide a status report regarding any pending investigations. Upon a finding by five affirmative votes that it may be in the best public interest that the board consider review of a pending investigation immediately, the board may direct that the city manager attend a meeting of the board and present to the board all relevant investigative materials. The board may thereupon commence review or may direct that the city manager complete the investigation and submit all investigative material to the board by a certain time.~~

(b) ~~Proposed disciplinary action and~~ ~~c~~Completed investigations shall be submitted to the board in the form of a written report prepared by the city manager. The report shall include the complaint, if any, any evidence received by the city manager in the form of written documents and audio or video recordings, the proposed disciplinary action, if any, and the factual basis for the proposal.

~~(c) No employee shall be disciplined by written reprimand or suspension as a result of a citizen complaint until the board has filed a written recommendation thereon with the city manager as provided in this article.~~

(~~d~~c) The Board shall either approve or reject the recommendation of the City Manager. If the Board rejects the recommendation, it shall provide written findings for its decision which shall be provided to the City Commission for review. ~~The recommendation of the board shall specifically set forth its grounds and shall recommend, as appropriate, approval, disapproval or modification of any proposed discipline~~ its agreement or disagreement with the findings. The board may also recommend a modification of policies, procedures, rules and regulations pertaining to the subject matter of a review.

(~~e~~d) The recommendation shall be signed by the chairperson as approved by ~~four~~ three or more affirmative votes of the entire board membership. ~~Any dissenting recommendations shall be signed by the dissenting member and shall be forwarded with the recommendation of the board~~.

~~(Code 1981, § 2-135; Code 1995, § 2-90)~~

Sec. 2-101. - Board review procedure.

(a) Upon ~~receipt of~~completion of a report ~~from~~ by the city manager, ~~the chairperson shall call~~ a meeting of the ~~i~~Independent R~~r~~eview B~~b~~oard shall be scheduled to consider and review the report ~~and to make a responsive recommendation thereon to the city manager~~ as set forth

herein. The meeting shall be held ~~not more than 15 days nor less than five days after the receipt of the report by the chairperson~~within a reasonable time.

(b) To assist the board in its review, the city manager may appoint an advisor to the board who is familiar with the policies and operations of the affected department. The advisor shall factually respond to questions of board members but shall not render opinions nor comment upon the content of the report. The board may request additional information from the city manager, who will respond promptly.

(c) ~~The~~ The decision of the board shall ~~prepare a written recommendation which shall~~ be based exclusively upon the report of the city manager, and any other material provided to the board by the city manager during the hearing. The review hearing is not intended to be an opportunity to introduce new evidence or testimony and therefore no public comment shall be heard by the board until after all hearings have concluded. Because this is an advisory board and the review is limited to the record of events, the board is not required to take any public comment.

(d) The written recommendation of the board shall be advisory to the city manager and shall be filed with the city manager within ten days of the meeting.

~~(Code 1981, § 2-136; Code 1995, § 2-91)~~

~~Sec. 2-102. - Governing statutes.~~

~~All action of the independent review board shall be taken in accordance with applicable law, including but not limited to, F.S. ch. 119, F.S. ch. 286, F.S. §§ 112.531—112.534 and F.S. §§ 112.80—112.84.~~

~~(Code 1981, § 2-137; Code 1995, § 2-92)~~

Secs. 2-~~103~~102—2-~~117~~138. - Reserved.

~~DIVISION 3. - COMMUNITY SERVICES ADVISORY BOARD~~[5]

~~Footnotes:~~

~~(5)~~

~~**Editor's note** — Ord. No. 2224-2011, § 2, adopted April 11, 2011, renamed the recreation advisory board the community services advisory board and amended this division to read as herein set out. While the ordinance did not specifically change the title of this division, the editor has done so at her discretion so that the title will conform to the text.~~

~~The former div. 3, titled Recreation Advisory Board, derived from Code 1995, §§ 2-96—2-98; and Ord. No. 1452, § 1, adopted March 25, 1996.~~

~~Sec. 2-118. - Created.~~

~~(Ord. No. 2224-2011, § 2, 4-11-2011; Ord. No. 2236-2011, § 2, 10-17-2011)~~

~~Sec. 2-119. - Membership.~~

~~The city community services advisory board shall consist of seven members. Not less than four members shall have been continuous residents or property owners within the city for not less than six months prior to appointment. Not more than three members may be appointed who have been continuous residents or property owners in the unincorporated area of the county for not less than six months prior to appointment.~~

~~(Ord. No. 2224-2011, § 2, 4-11-2011; Ord. No. 2236-2011, § 2, 10-17-2011)~~

~~Sec. 2-120. - Authority; responsibilities.~~

~~The city community services advisory board shall be an advisory board of the city and shall, of its own volition, or as requested by the community services division, the city manager or the city commission, review and may make recommendations to the city staff or directly to the city commission regarding any matter involving the use of city parks, and cultural or recreation facilities by the public. The board shall also review the application for grants related to parks, cultural and recreation facilities and their use and in developing a public awareness of the opportunities for culture, recreation and leisure activities in the city. The board shall conduct such meetings as may be necessary to perform the foregoing responsibilities.~~

~~(Ord. No. 2224-2011, § 2, 4-11-2011; Ord. No. 2236-2011, § 2, 10-17-2011)~~

~~Secs. 2-121—2-138. - Reserved.~~

ARTICLE IV. - DEPARTMENTS, OFFICERS AND EMPLOYEES

~~Footnotes:~~

~~--- (6) ---~~

~~**Charter reference**— Charter officer, § 3.01; appointment and term, § 3.02; city manager, §§ 3.04, 3.05; city attorney, § 3.06; departments, art. V; city clerk, §§ 5.01, 5.02; city auditor, § 5.03.~~

DIVISION 1. - GENERALLY

Sec. 2-139. - Governmental organization.

(a) The city manager and the city attorney shall be responsible and report directly to the city commission.

(b) The city administration shall consist of the following departments and department directors:

	Department	Director
(1)	Administration	City manager
(2)	Law	City attorney
(3)	Police	Police chief
(4)	Fire-rescue	Fire chief
(5)	Clerk	City clerk
(6)	Financial services	Financial services director
(7)	Public works	Public works director

(8)	Utilities & Engineering	Utilities Director
(98)	Development	Development director
(109)	Community services	Community services director
(101)	Human resources	Human resources director
(112)	TechnologyInformation services	TechnologyInformation services director

(c) Department directors shall be employed and supervised by the city manager. Unless otherwise provided by contract approved by the city commission, directors shall be "at will" employees.

(d) At the discretion of the city manager, a department director position may be filled by the city manager or by the assistant city manager.

(Code 1981, § 2-1; Code 1995, § 2-116; Ord. No. 1937-03, § 1, 4-28-2003)

Sec. 2-140. - Succession lists for city manager and department directors.

(a) At the first regular meeting of the city commission in December each year, the city manager shall submit to the city commission a succession list naming two subordinates who shall be authorized to act in the absence of the city manager. The list shall also name two subordinates who shall be authorized to act in the absence of each department director. All names submitted for each position shall be stated as first and second in priority.

(ba) The city manager shall be deemed to be absent for the purposes of this section when the city manager submits to the city commission a written notice of absence which specifies the dates and times of absence and reminds informs the city commission of the person Department Director who is authorized to act in the absence of the city manager. A department director shall be deemed to be absent when such notice has been provided to the city manager. Absence shall also occur when the city manager or department director is unable to perform work duties or is unavailable for any reason, including disability, illness, or other emergency.

(cb) Nothing in this section shall be deemed to preclude the city commission from appointing an acting city manager, or the city manager from appointing an acting department director, in the event another individual is deemed more qualified than the designated successor. Unless specifically authorized by the city commission, no individual shall receive an increase in salary or other remuneration when acting during the absence of a superior. Remuneration for acting in such higher capacity, if any, shall comply with applicable provisions of the City of Stuart Employee Handbook.

(Code 1995, § 2-117; Ord. No. 1462, § 1, 11-25-1996)

Sec. 2-141. - Travel expenses.

Per diem and travel expenses of public officers, employees, and authorized persons shall be as set forth in Florida Statute 112.061 or as adopted by resolution of the city commission if there is a need to

deviate from the statutory guidelines. ~~A policy for travel expenses for city officers and personnel shall be adopted by resolution of the city commission from time to time and kept on file in the office of the city clerk.~~

~~(Code 1981, §§ 2-33—2-51; Code 1995, §§ 2-126—2-145)~~

State Law reference— Per diem and traveling expenses of public officers and personnel, F.S. § 112.061.

Secs. 2-142—2-165. - Reserved.

DIVISION 2. - EMPLOYEE BENEFITS

Sec. 2-166. - Retirement.

(a) *Policy of extending state system to employees declared.* It is hereby declared to be the policy and purpose of the city to extend, effective January 1, 1973, to the employees and officials thereof, not excluded by law or exempted herein, the benefits of the state retirement system as authorized by F.S. ch. 121, and amendments thereto, to cover by such plan all services which constitute employment as defined in F.S. ch. 121, performed in the employ of the city by employees and officials thereof.

(b) *State system adopted.* The city does hereby adopt the terms, conditions, requirements, reservations, benefits, privileges, and other conditions thereunto appertaining, of the state retirement system, for and on behalf of all officers and employees of its departments and agencies to be covered under the agreement.

(c) *Employees excluded and included in state system.* There is hereby excluded from this article any authority to include in any agreement entered into under subsection (d) of this section any service, position, employee, or official now covered by or eligible to be covered by an existing retirement system sponsored by the city exclusive of social security except after holding a referendum, in which all employees and officials in the affected units have the right to participate. Only those employees and officials electing coverage under the state retirement system by affirmative vote in such referendum shall be eligible for coverage, and those not participating or electing not to be covered by the state retirement system shall remain in their present system and shall not be eligible for coverage. After such referendum is held, all future employees shall be compulsory members of the state retirement system.

(d) *Agreements for administration of state system.* The mayor is hereby authorized and directed to execute all necessary agreements and amendments thereto with the state department of administration for the purpose of extending the benefits provided by the state retirement system to the employees and officials of the city as provided in subsections (a) and (c) of this section, which agreement shall provide for such methods of administration of the plan by the city as are found by the administrator of the state retirement system to be necessary and proper, and shall be effective with respect to services in employment covered by such agreement performed on and after January 1, 1973.

(e) *Contributions by city for state system.* There shall be appropriated from available funds, derived from the city general fund and water and sewer operating fund, such amounts and at such times as may be required to pay promptly the contributions and assessments required of

the city as employer, by applicable state laws or regulations, which shall be paid over to the lawfully designated administrator of the state retirement system at the times and in the manner provided by law and regulation.

(f) *Records and reports required to be kept; compliance with state regulations.* The city shall keep such records and make such reports as may be required by applicable state laws or regulations, and shall adhere to all laws and regulations relating to the state retirement system.

(g) *Duties of ~~city clerk~~ Finance relating to state system.* The Financial services director ~~city clerk~~ is hereby designated the custodian of all sums withheld from the compensation of officers and employees as authorized herein and of the appropriated funds for the employer's contributions as provided in subsection (e) of this section. Also, the city clerk is hereby made the withholding and reporting agent and charged with the duty of maintaining records for the purposes of this section.

(h) *Purchase of "back time" in state system.* Authority is hereby reserved to the city to purchase "back time" at a later date under the state retirement system.

~~(Code 1981, §§ 2-62—2-70; Code 1995, § 2-156)~~

Sec. 2-167. - Old-age and ~~s~~Survivors ~~i~~Insurance (OASI).

(a) *Policy declared.* It is hereby declared to be the policy and purpose of the city to extend effective October 1, 1953, to the employees and officials thereof not excluded by law nor excepted herein, and whether employed in connection with a governmental or proprietary function, the benefits of the system of old-age and survivors insurance as authorized by the Federal Social Security Act and amendments thereto, including Public Law No. 734 of 81st Congress, and by F.S. ch. 650, and to cover by such plan all services which constitute employment as defined in F.S. § 650.02, performed in the employ of the city by employees thereof, except the city commissioners.

(b) *Agreement authorized.* The mayor, or other chief executive officer, is hereby authorized and directed to execute all necessary agreements and amendments thereto with the state department of administration, division of retirement, or its successor, as state agency, for the purpose of extending the benefits provided by such system of old-age and survivors insurance to the employees and officials of this city, as provided in subsection (a) of this section, which agreement shall provide for such methods of administration of the plan by the city as are found by the state agency to be necessary for the proper and efficient administration thereof, and shall be effective with respect to services in employment covered by such agreement performed after October 1, 1953.

(c) *Withholdings required.* Withholdings from salaries, wages, or other compensation of employees and officials for the purpose provided in subsection (a) of this section are hereby authorized to be made, and shall be made, in the amounts and at such times as may be required by applicable state or federal laws or regulations, and shall be paid over to the state agency designated by such laws or regulations to receive such amounts.

(d) *Appropriations by city required.* There shall be appropriated from available funds, derived from ad valorem taxes, such amounts, at such times, as may be required to pay promptly the contributions and assessments required of the city as employer by applicable state or federal

laws or regulations, which shall be paid over to the lawfully designated state agency at the times and in the manner provided by law and regulation.

(e) *Records and reports required to be kept; compliance with state regulations.* The city shall keep such records and make such reports as may be required by applicable state or federal laws or regulations, and shall adhere to the regulations of the state agency.

(f) *Social Security Act adopted.* The city hereby adopts the terms, conditions, requirements, reservations, benefits, privileges, and other conditions thereunto appertaining, of Title II of the Social Security Act, as amended by Public Law No. 734, 81st Congress, for and on behalf of all the officers and employees thereof and of its departments and agencies, save and except any of such officers and employees covered or authorized to be covered as of October 1, 1953, by any retirement system provided by law, and further excepting any official or employee who occupies any position, office, or employment not authorized to be covered by applicable state or federal laws or regulations, or whose service is specifically excepted.

(g) *Custodian, withholding and reporting agent designated.* The director of finance is hereby designated the custodian of all sums withheld from the compensation of officers and employees and of the appropriated funds for the contribution of the city, and the director is hereby made the withholding and reporting agent and charged with the duty of maintaining financial records for the purposes of this division.

~~(Code 1981, §§ 2-81—2-87; Code 1995, § 2-157)~~

State Law reference— Social Security for public employees generally, F.S. ch. 650; coverage for municipal employees authorized, F.S. § 650.05.

Secs. 2-168—2-187. - Reserved.

ARTICLE V. - FINANCIAL MATTERS[7]

~~Footnotes:~~

~~— (7) —~~

~~**Charter reference**— Annual audit, § 5.04.~~

~~**State Law reference**— Municipal borrowing, F.S. § 166.101 et seq.; municipal finance and taxation, F.S. § 166.201 et seq.; financial matters pertaining to political subdivisions, F.S. ch. 218.~~

DIVISION 1. - GENERALLY

Sec. 2-188. - City depositories.

(a) For purposes of this section, the term "qualified financial institution" means a financial institution:

(1) Qualified under state law to act as a public depository;

(2) Which is a bank or savings association organized and existing under the laws of the state or the United States.

(b) At least once every three years the city commission shall review and approve by resolution the city's investment policy.

(c) In determining authorized city depositories or in selecting financial institutions to provide specific financial services, the city commission may require written bids or proposals. However, the city commission shall not be obligated to make its decision solely on the basis of the highest or lowest bid. In designating city depositories, or selecting financial institutions for specific services, the commission may consider any relevant factors, including, but not limited to:

(1) The institution's ability to meet the needs of the city residents for financial services;

(2) The institution's contributions to the growth and well-being of the city area by originating or servicing loans to city residents and businesses; and

(3) The institution's reputation, financial strength and stability.

~~(Code 1981, § 2-8; Code 1995, § 2-236)~~

State Law reference— Security for public deposits, F.S. ch. 280.

Sec. 2-189. - Authority to ~~amend~~ reallocate budget administratively.

The city manager is authorized to administratively ~~amend~~ reallocate the annual budget of the city after adoption thereof by the city commission for the purpose of ~~reallocation~~ transfer within the adopted appropriation in accordance with the fiscal policy of the city; and for arithmetic corrections.

~~(Code 1995, § 2-237; Ord. No. 1455, § 1, 6-10-1996; Ord. No. 1691-99, § 1, 10-11-1999)~~

Secs. 2-190—2-216. - Reserved.

DIVISION 2. - FEES

Sec. 2-217. - Copies of city records.

In furnishing copies or certified copies of the public records of the city as are authorized or required to be furnished to the public pursuant to F.S. § 119.07, all city officers and employees shall require from the person requesting such copies the payment as currently established or as hereafter adopted by resolution of the city commission from time to time in appendix A to this Code.

~~(Code 1981, § 2-5; Code 1995, § 2-247)~~

State Law reference— Public records act, F.S. ch. 119.

Sec. 2-218. - Dishonored checks.

A service fee for the collection of a dishonored check, draft or other order for the payment of money to the city shall be as currently established or as hereafter adopted by resolution of the city commission from time to time in appendix A to this Code. The service fee shall be in addition to the face amount of the check, draft or order and to other penalties imposed by law. Proceeds from this fee shall be retained by the city.

~~(Code 1981, § 2-12; Code 1995, § 2-248)~~

State Law reference— Fee authorized for dishonored checks, F.S. § 166.251; maximum fees, F.S. § 832.08(5).

Sec. 2-219. - Credit card transactions.

The city is hereby authorized to charge the amount as currently established or as hereafter adopted by resolution of the city commission from time to time in appendix A to this Code as a convenience fee for each credit card transaction that utilizes the Internet or other telecommunication means, including telephone, as a mode of payment.

~~(Res. of 2-12-2007)~~

Sec. 2-220. - Emergency services.

Fees for emergency services shall be as currently established or as hereafter adopted by resolution of the city commission from time to time in appendix A to this Code.

~~(Code 1995, § 34-1; Ord. No. 1900, § 1, 11-18-2002; Ord. No. 2041, § 1, 9-12-2005; Ord. No. 2182-09, § 3, 7-13-2009)~~

Sec. 2-221. - Fingerprinting services.

A fee as currently established or as hereafter adopted by resolution of the city commission from time to time in appendix A to this Code shall be charged for fingerprinting services performed at the request of the public by the city police department.

~~(Code 1995, § 50-1; Ord. No. 1443, § 1, 11-27-1995)~~

Sec. 2-222. - Criminal justice education for local government.

In addition to the court costs assessed pursuant to F.S. § 938.01, required of every person convicted for a violation of a state penal or criminal statute or for violation of a municipal or county ordinance, an additional charge as currently established or as hereafter adopted by resolution of the city commission from time to time in appendix A to this Code is hereby assessed by the city pursuant to F.S. § 938.15, for criminal justice education. The funds so collected shall be used exclusively for criminal justice education degree programs and training courses, including basic recruit training, for the police officers and support personnel of the city. The education degree programs and training courses shall ~~first~~ be approved by the ~~city manager on a form provided by the criminal justice standards and training commission of the state department of law enforcement for local funding~~Chief of Police. Funds so collected by the city shall be used exclusively for criminal justice education as provided in F.S. § 938.15.

~~(Code 1995, § 50-2; Ord. No. 1991, § 1, 7-2-2004)~~

Secs. 2-223—2-252. - Reserved.

DIVISION 3. - SALES BY CITY

Sec. 2-253. - Real property.

(a) All applications for the purchase or lease of real property owned by the city shall be made in writing to the city commission. The prospective purchaser or lessee shall agree to pay for

any appraisals required by the city commission as a condition precedent to the further consideration of the application by the city commission.

(b) No application for such purchase or lease shall be granted by the city commission without a public hearing thereon at which interested members of the public shall be permitted to address the city commission regarding the propriety of the sale or lease. Such sale or lease shall be approved by resolution of the city commission adopted at the conclusion of the public hearing.

(c) No real property owned by the city shall be sold or leased for a term of longer than one year unless a real estate appraisal report has been presented to the city commission which contains an estimate of the fair market value of the subject real property determined within the preceding ~~three~~ twleve months. Additional appraisals may be required at the discretion of the city commission. The appraisal requirement may be waived by the Commission when appropriate. Appraisals shall be performed by certified general appraisers so certified by the state department of professional regulation pursuant to ~~F.S. ch. 475.~~

~~(Code 1981, § 2-6; Code 1995, § 2-261)~~

Sec. 2-254. - Statement of intent.

It is the intent of the city commission that no lease of city-owned real property shall be approved by the city commission that does not provide an annual return on investment of at least ten percent. It is the further intent of the city commission that no sale of city-owned real property shall be approved by the city commission for a purchase price of less than the fair market value of the property at the time of sale. This expression of intent may be waived by the city commission upon a determination that a particular lease or sale of city-owned real property for a lesser amount is nevertheless in the best interest of the public.

~~(Code 1995, § 2-262; Ord. No. 1538, § 1, 11-24-1997)~~

Sec. 2-255. - Long term lease or conveyance of waterfront property; subject to approval at referendum.

The City Commission shall not convey or lease for more than 10 years (including options to renew) any interest in real property owned or controlled by the City, if it or any contiguous parcel has frontage on the St. Lucie River or on a tidal creek, unless the proposed conveyance or lease is first approved by public referendum using the procedure started in Charter section 9.04 for vacating public streets providing water access.

Secs. 2-~~255~~256—2-270. - Reserved.

DIVISION 4. - PROCUREMENT AND CONTRACTING

~~Footnotes:~~
~~--- (8) ---~~

~~**Editor's note** — Ord. No. 2390-2018 , § 1, adopted October 22, 2018, repealed the former division 4, §§ 2-271—2-305, and enacted a new division 4 as set out herein. The former division 4 pertained to similar subject matter and derived from Ord. No. 2248-2012, § 1, adopted August 13, 2012.~~

Sec. 2-271. - Purchasing, procurement, contracting and disposal.

(a) The city manager shall prepare procurement policies and procedures pertaining to purchases and acquisitions of personal property and services, management of contracts and property management, and disposal of property that shall apply to all personnel involved in the purchasing process.

(b) Such policies and procedures shall be adopted by resolution.

~~(Ord. No. , § 1, 10-22-2018)~~

Sec. 2-272. - Conflict of interest.

It shall be unlawful for any city officer or employee to participate directly or indirectly in a procurement contract when the city employee knows that he or any member of his immediate family will personally benefit there from in any manner.

~~(Ord. No. , § 1, 10-22-2018)~~

Sec. 2-273. - Gratuities and kickbacks.

(a) It shall be unlawful for any person to offer, give, or agree to give any city officer or employee or for any city officer or employee agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, or preparation of any part of a program requirement or a purchase request, standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy, or other particular matter, pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefore.

(b) It shall be unlawful for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or any person associated therewith, as an inducement for the award of a subcontract or order.

~~(Ord. No. , § 1, 10-22-2018)~~

Sec. 2-274. - Use of confidential information.

It shall be unlawful for any city officer or employee to use confidential information for actual or anticipated personal gain or for the actual or anticipated personal gain of any other person.

~~(Ord. No. , § 1, 10-22-2018)~~

Sec. 2-275. - Waiver of competitive selection by city commission.

The city commission may, when deemed to be in the best interests of the city and to the extent not inconsistent with law, waive any or all requirements or provisions set forth in this division and may proceed thereafter to take whatever procurement action is deemed to be in the best interests of the city.

~~(Ord. No. , § 1, 10-22-2018)~~

Sec. 2-276. - Products and services exempt from the competitive process.

There are certain products and services that have no competitive arena within which price comparison will be likely to produce the most useful or beneficial product or service. Such products and services shall not require competitive solicitation. However, terms, conditions and prices will be negotiated to assure the city obtains fiscally responsible products and services. These products and services include, but may not be limited to the following:

(1) Artistic.

(2) Medical.

(3) Veterinary.

(4) Educational.

(5) Managerial.

(6) Financial.

(7) Legal.

(8) Animal procurement.

(9) Products or services procured from other governmental agencies.

(10) Products procured for resale.

(11) Used equipment.

(12) Advertising.

(13) Scientific.

(14) Lobbying.

(15) Magistrate.

~~(Ord. No. , § 1, 10-22-2018)~~

Secs. 2-277—2-324. - Reserved.

DIVISION 5. - DESIGN-BUILD CONTRACTS

Sec. 2-325. - Definitions.

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

Design-build contract means a single contract with a design-build firm encompassing the design and construction of a project.

Design-build firm means an individual, partnership, corporation, or other legal entity which is certified to engage in contracting as or through a certified or registered general or building contractor or which is certified to practice or to offer to practice engineering, architecture, or landscape architecture.

Design-build package means a concise performance-oriented set of drawings and specifications of the requirements of a project which define the design parameters and the time and budgetary constraints to be achieved.

Design criteria professional means an individual, partnership, corporation, or other legal entity which holds a current certificate of registration to practice engineering, architecture, or landscape architecture or which holds a current certificate as a registered engineer and which is employed by or under contract to the city for the provision of professional engineering, architectural, or landscape architectural services in connection with the preparation of a design criteria package.

~~(Code 1995, § 2-311; Ord. No. 1464, § 1, 1-13-1997)~~

Sec. 2-326. - Qualification procedures.

(a) As deemed necessary by the city manager, the city shall review the statement of qualifications and performance data submitted by interested design-build firms and shall review other pertinent information available to the city to determine if individual firms are certified to render services to the city. Among the factors to be considered in making a determination as to certification are the capability and adequacy of personnel, and the past performance record, experience, and financial standing of the firm.

(b) The city may request evaluation of the ongoing performance of each design-build firm under contract to render professional services to the city and may make that evaluation part of the permanent record as information to be used when the firm again is under consideration for city work. In making an evaluation, consideration shall be given to performance in meeting quality level of services required in the contract, performance in administration of the project, and the relationship with the city, construction contractor, and other persons concerned.

(c) The city shall cause to be maintained a current list of certified design-build firms, along with a designation for each firm indicating the categories of work for which each firm is certified.

(d) A request may be sent by the city to each design-build firm on the certified list for updated information regarding the professional qualifications of the firm.

~~(Code 1995, § 2-312; Ord. No. 1464, § 1, 1-13-1997)~~

Sec. 2-327. - Selection of firm.

(a) A design criteria professional selected by the city in accordance with the provisions of F.S. § 287.055 shall prepare a design criteria package for each project for which a design-build contract will be solicited. Alternatively, the design criteria package may be prepared by an employee of the city. A design criteria professional, if used, shall not be eligible to render services as a design builder for the project. The design criteria package shall be approved by the city commission.

(b) The design criteria package shall consist of performance-oriented drawings and specifications of the requirements of the project which define the design parameters and the time and budgetary constraints to be achieved. Performance-based criteria may include the legal description of the project site, survey information, interior space requirements, material quality standards, schematic layouts and conceptual design criteria, cost or budget estimates, design and construction schedules, site development requirements, utilities requirements, stormwater retention and disposal, on-site parking, and land acquisition. The selected design-build firm shall be responsible to design the project to meet the design criteria.

(c) The design criteria professional shall assist the city in the review of the design documents prepared by the design builder and submitted to the city. During construction, the design criteria professional shall also report to the city regarding the compliance of the construction with the design criteria package.

(d) The city shall cause to be published in a newspaper of general circulation within the city a legal notice generally describing the project and indicating how interested firms can apply for consideration. Publication shall not be required in the case of a valid public emergency so determined by the city manager.

(e) The city shall designate a city employee, who is identified in the published legal notice, who may conduct discussions with interested firms to clarify the nature and scope of the project. Such discussions shall be undertaken so as not to give any firm an unfair advantage over other firms in preparing and submitting a design-build proposal.

(f) The city shall evaluate all design-build proposals submitted by the interested design-build firms. The city manager shall conduct discussions with, and, unless fewer proposals are received, may require presentations by no fewer than, three design-build firms to determine an order of preference of the most qualified firms to provide the services. In making such determination, the factors to be considered shall include past performance of the firm; ability of personnel to perform the work; ability to meet time and budget constraints; location of the firm; financial capability; recent, current, and projected work loads of the firm; and any other factors that may be established prior to the solicitation of proposals. The city manager shall consult with the design criteria professional during the evaluation of the proposals prior to making a final determination. The city may utilize a design competition as part of the selection process. The city commission shall confirm the order of preference determined by the city manager.

(g) After the order of preference has been approved by the city commission, the city manager shall attempt to negotiate a contract for design-build services with the firm first in the order of preference. The city manager shall conduct a detailed analysis of the cost of the design-build services required, giving consideration to the scope and complexity of such services. Should discussions with the firm of first preference fail to produce a contract which is believed to be fair, competitive and reasonable, discussions shall be terminated with such firm and discussions shall commence with the firm of second preference. Failing an accord with this firm, discussions shall commence with the firm of third preference. If the city manager is unable to negotiate a satisfactory contract with any of the preferred firms, notice thereof shall be given to the city commission. The city commission may direct that discussions be

recommenced with any of the preferred firms or may direct that discussions be commenced with another firm. The city commission may also decide to terminate the process.

(h) Any contract reached with a design-build firm according to the process described above shall be reviewed and approved by the city attorney prior to execution by the city commission.

~~(Code 1995, § 2-313; Ord. No. 1464, § 1, 1-13-1997)~~

Secs. 2-328—2-350. - Reserved.

DIVISION 6. - ASSESSMENTS

Subdivision I. - Introduction

Sec. 2-351. - Definitions.

When used in this division, the following terms shall have the following meanings, unless the context clearly requires otherwise:

Annual assessment resolution means the resolution described in section 2-368 hereof, approving an assessment roll for a specific fiscal year.

Assessment means a special assessment imposed by the commission pursuant to this ordinance to fund the capital cost of capital improvements or the service cost of essential services. The term "assessment" and the reference to non-ad valorem assessments herein means those assessments which are not based upon millage and which can become a lien against a homestead as permitted by Article X, Section 4 of the Florida Constitution.

Assessment area means any specific areas created by resolution of the commission pursuant to section 2-362 hereof, that specially benefit from capital improvements or essential services.

Assessment coordinator means the city manager or such person's designee.

Assessment roll means the special assessment roll relating to capital improvements or essential services containing the information specified in section 2-364 hereof, approved by a final assessment resolution or an annual assessment resolution pursuant to section 2-367 or section 2-268 hereof.

Assessment unit means the apportionment unit 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 and not limitation, one or a combination of the following: front footage, land area, improvement area, equivalent residential connections or units, 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 is related to the capital improvements or essential services to be funded from proceeds of the assessment.

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 capital improvements 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.

Capital improvements means capital improvements constructed or installed by the city which provide a special benefit to lands within an assessment area.

City means the City of Stuart, Florida.

City Code means the Stuart Code of Ordinances.

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

Commission means the city commission of the City of Stuart, Florida.

Essential services means the services, facilities, or programs which provide a special benefit to, or relieve a burden attributable to, lands within an assessment area.

Final assessment resolution means the resolution described in section 2-367 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 the period commencing on October 1 of each year and continuing through the following 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, the State of Florida, a county, a special district, a municipal corporation, or any of their respective agencies or political subdivisions.

Initial assessment resolution means the resolution described in section 2-363 hereof, which shall be the initial proceeding for the imposition of an assessment.

Maximum assessment rate means the highest rate of an assessment established by the commission in an initial assessment resolution and included in the notices required by sections 2-365 and 2-366 hereof.

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

Ordinance means this capital improvement and essential services procedural assessment ordinance.

Pledged revenue means, as to any series of obligations:

(1) The proceeds of such obligations, including investment earnings;

(2) Proceeds of the assessments pledged to secure the payment of such obligations; and

(3) Any other legally available non-ad valorem revenue pledged, at the commission's sole option, to secure the payment of such obligations, as specified by the ordinance and any resolution authorizing such obligations.

Property appraiser means the Martin County Property Appraiser.

Resolution of intent means the resolution expressing the commission's intent to collect assessments on the ad valorem tax bill required by the Uniform Assessment Collection Act.

Service cost means all or any portion of the expenses that are properly attributable to the provision of essential services under generally accepted accounting principles; and including reimbursement to the city for any funds advanced for such expenses and interest on any interfund or intrafund loan for such purposes.

Tax collector means the Martin County Tax Collector.

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 thereunder.

~~(Ord. No. 2271-2013, § 1.01, 9-23-2013)~~

Sec. 2-352. - 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 division; and the term "hereafter" means after, and the term "heretofore" means before, the effective date of this division. Words importing either gender include the correlative words of the other gender unless the context indicates otherwise.

~~(Ord. No. 2271-2013, § 1.02, 9-23-2013)~~

Sec. 2-353. - Finding.

It is hereby ascertained, determined and declared as follows:

(1) Article VIII, section 2 of the Florida Constitution and F.S. § 166.021, grant the City all governmental, corporate, and proprietary powers to enable the commission to conduct municipal government, perform municipal functions, and render municipal services, and exercise any power for municipal purposes, except when expressly prohibited by law, and such powers may be exercised by the enactment of city ordinances.

(2) The assessments authorized herein shall constitute non-ad valorem assessments within the meaning and intent of the Uniform Assessment Collection Act.

(3) The assessments imposed pursuant to this division will be imposed by the commission, not the property appraiser or tax collector. Any activity of the property appraiser or tax collector under the provisions of this division shall be construed solely as ministerial.

~~(Ord. No. 2271-2013, § 1.03, 9-23-2013)~~

Secs. 2-354—2-360. - Reserved.

Subdivision II. - Assessments

Sec. 2-361. - Authority and purpose.

The commission is hereby authorized to impose assessments against property located within an assessment area to fund capital improvements or essential services. The assessment shall be

computed in a manner that fairly and reasonably apportions the capital costs or service costs among the parcels of property within an assessment area, based upon objectively determinable assessment units related to the value, use or physical characteristics of the property.

~~(Ord. No. 2271-2013, § 2.01, 9-23-2013)~~

Sec. 2-362. - Creation of assessment areas.

(a) The commission is hereby authorized to create assessment areas by resolution. Each assessment area shall encompass only that property specially benefited by the capital improvements or essential services proposed for funding from the proceeds of assessments to be imposed therein. Either the initial assessment resolution proposing an assessment area or the final assessment resolution creating an assessment area shall include brief descriptions of the capital improvements or essential services proposed for such area, 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 capital improvement or essential service to property within the assessment area. Properties in any assessment area need not be adjacent or contiguous to any other property in an assessment area.

(b) At its option, the commission may establish a process pursuant to which the owners of property may petition for creation of an assessment area to fund capital improvements and essential services. Notwithstanding any petition process established pursuant to this section, the commission shall retain the authority to create assessment areas without a landowner petition.

~~(Ord. No. 2271-2013, § 2.02, 9-23-2013)~~

Sec. 2-363. - Initial assessment resolution.

The initial proceeding for imposition of an assessment shall be the commission's adoption of an initial assessment resolution. The initial assessment resolution shall:

(1) Describe the proposed assessment area;

(2) Describe the capital improvements or essential services proposed for funding from proceeds of the assessments;

(3) Estimate the service cost or capital cost;

(4) Establish a maximum assessment rate if desired by the commission;

(5) Describe with particularity the proposed method of apportioning the service cost or capital cost among the parcels of property located within the assessment area, such that the owner of any parcel of property can objectively determine the amount of the assessment, based upon its value, use or physical characteristics;

(6) Include specific legislative findings that recognize the equity provided by the apportionment methodology;

(7) Schedule a public hearing at a meeting of the commission, which meeting shall be a regular, adjourned or special meeting, at which to hear objections of all interested persons

and to consider adoption of the final assessment resolution and approval of the assessment roll; and

(8) Direct the assessment coordinator to:

a. Prepare the assessment roll pursuant to section 2-364 hereof;

b. Publish the notice required by section 2-365 hereof; and

c. Mail the notice required by section 2-366 hereof using information then available from the property appraiser.

~~(Ord. No. 2271-2013, § 2.203, 9-23-2013)~~

Sec. 2-364. - Assessment roll.

(a) The assessment coordinator shall prepare a preliminary assessment roll that contains the following information:

(1) A summary description of each parcel of property (conforming to the description contained on the tax roll) subject to the assessment;

(2) The name of the owner of record of each parcel, as shown on the tax roll;

(3) The number of assessment units attributable to each parcel;

(4) If applicable, the estimated maximum annual assessment to become due in any fiscal year for each assessment unit; and

(5) If applicable, the estimated maximum annual assessment to become due in any fiscal year for each parcel.

(b) Copies of the initial assessment resolution and the preliminary assessment roll shall be on file in the office of the assessment coordinator 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 assessment for each parcel of property can be determined by use of a computer terminal or otherwise accessible through the internet or similar data base.

~~(Ord. No. 2271-2013, § 2.04, 9-23-2013)~~

Sec. 2-365. - Notice by publication.

(a) After filing the assessment roll in the office of the assessment coordinator, as required by subsection 2-364(b) hereof, the assessment coordinator shall publish once in a newspaper of general circulation within Martin County a notice stating that at a meeting of the 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 commission will hear objections of all interested persons to the final assessment resolution and approval of the 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 assessment;

(2) The proposed schedule of the assessment;

(3) The method by which the assessment shall be collected;

(4) The maximum assessment rate in the event one was adopted in the initial assessment resolution; and

(5) A statement that all affected property owners have the right to appear at the public hearing and to file written objections within 20 days of the publication of the notice.

(b) Notwithstanding anything in this division to the contrary, notice of a proposed assessment may be given in any manner authorized by law.

~~(Ord. No. 2271-2013, § 2.05, 9-23-2013)~~

Sec. 2-366. - Notice by mail.

(a) In addition to the published notice required by section 2-365 hereof, the assessment coordinator shall provide notice of the proposed assessment by first class mail to the owner of each parcel of property subject to the assessment. The mailed notice shall conform to the requirements set forth in the Uniform Assessment Collection Act. Such notice shall include:

(1) The purpose of the assessment;

(2) The rate of assessment to be levied against each parcel of property including a maximum assessment rate in the event one was adopted by the initial assessment resolution;

(3) The assessment unit to be applied to determine the assessment;

(4) The number of such assessment units contained in each parcel;

(5) The total revenue to be collected by the assessment; and

(6) A statement that failure to pay the assessment will cause a tax certificate to be issued against the property or foreclosure proceedings may be instituted, either of which may result in a loss of title to the property;

(7) A statement that all affected property owners have a right to appear at the hearing and to file written objections with the commission within 20 days of the notice; and

(8) The date, time and place of the hearing.

(b) Notice shall be mailed at least 20 calendar days prior to the hearing to each property owner at such address as is shown on the tax roll on the twentieth calendar day prior to the date of mailing. Notice shall be deemed mailed upon delivery thereof to the possession of the U.S. Postal Service. The assessment coordinator may provide proof of such notice by affidavit. Notwithstanding anything in this division to the contrary, notice of a proposed assessment may be given in any manner authorized by law.

~~(Ord. No. 2271-2013, § 2.06, 9-23-2013)~~

Sec. 2-367. - Adoption of final resolution.

At the time named in such notices, or to which an adjournment or continuance may be taken, the commission shall receive written objections and hear testimony of interested persons and

may then, or at any subsequent meeting of the 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 commission;

(2) Create the assessment area;

(3) Establish the maximum amount of the assessment for each assessment unit;

(4) Approve the assessment roll, with such amendments as it deems just and right; and

(5) Determine the method of collecting the assessments.

~~(Ord. No. 2271-2013, § 2.07, 9-23-2013)~~

Sec. 2-368. - Annual assessment resolution.

The commission may adopt an annual assessment resolution during its budget adoption process for each fiscal year in which assessments will be imposed to approve the assessment roll for such fiscal year. The final assessment resolution shall constitute the annual assessment resolution for the initial fiscal year. The assessment roll, as prepared in accordance with the initial assessment resolution and confirmed or amended by the final assessment resolution, shall be confirmed or amended by the annual assessment resolution to reflect the then applicable portion of the cost of the capital improvements or essential services, or both, to be paid by assessments. If the proposed assessment for any parcel of property exceeds the maximum assessment rate established in the initial assessment resolution for the area and described in the notices provided pursuant to sections 2-365 and 2-366 hereof or if an assessment is imposed against property not previously subject thereto, the commission shall provide notice to the owner of such property in accordance with sections 2-365 and 2-366 hereof and conduct a public hearing prior to adoption of the annual assessment resolution. Failure to adopt an annual assessment resolution during the budget adoption process may be cured at any time.

~~(Ord. No. 2271-2013, § 2.08, 9-23-2013)~~

Sec. 2-369. - Effect of assessment resolutions.

The adoption of the final assessment resolution or of an annual assessment resolution requiring notice as provided in section 2-368 hereof, shall be the final adjudication of the issues presented (including, but not limited to, the apportionment methodology, the rate of assessment, the maximum annual assessment of each parcel, the adoption of the assessment roll and the levy and lien of the assessments), unless proper steps are initiated in a court of competent jurisdiction to secure relief within 20 days from the date of the commission's adoption of the final assessment resolution. The assessments for each fiscal year shall be established upon adoption of the annual assessment resolution. If the assessments are to be collected pursuant to the Uniform Assessment Collection Act, the assessment roll, as approved by the annual assessment resolution, shall be certified to the tax collector.

~~(Ord. No. 2271-2013, § 2.09, 9-23-2013)~~

Sec. 2-370. - Prepayment of assessments.

(a) The assessment imposed against any parcel of property to fund capital improvements shall be subject to prepayment at the option of the property owner, as follows:

(1) Prior to the issuance of obligations, the assessment coordinator shall provide first class mailed notice to the owner of each parcel of property subject to the assessment of the commission's intent to issue such obligations. On or prior to the date specified in such notice (which shall not be earlier than the thirtieth day following the date on which the notice is delivered to the possession of the U.S. Postal Service), or such later date as the commission may allow in its sole discretion, the owner of each parcel of property subject to the assessment shall be entitled to prepay the total assessment obligation.

(2) Following the date specified in the notice provided pursuant to subsection 2-370(a) hereof, or such later date as the commission may allow in its sole discretion, the owner of each parcel of property subject to the assessment shall be entitled to prepay the total remaining assessment upon payment of an amount equal to the sum of (a) such parcel's share of the principal amount of obligations then outstanding, (b) the premium associated with redemption of such parcel's share of the principal amount of obligations then outstanding, and (c) interest on such parcel's share of the principal amount of obligations then outstanding, from the most recent date to which interest has been paid to the next date following such prepayment on which the city can redeem obligations after providing all notices required by the ordinance or resolution authorizing issuance of such obligations; provided however, that during any period commencing on the date the annual assessment roll is certified for collection pursuant to the Uniform Assessment Collection Act and ending on the next date on which unpaid ad valorem taxes become delinquent, the city may reduce the amount required to prepay the assessments imposed against any parcel of property by the amount of the assessment certified for collection with respect to such parcel.

(b) At the city's election, the assessment imposed against any parcel of property may be subject to acceleration and mandatory prepayment if at any time a tax certificate has been issued and remains outstanding in respect of such property. In such event, the amount required for mandatory prepayment shall be the same as that required for an optional prepayment authorized by subsection 2-370(a)(2) hereof.

(c) The amount of all prepayments computed in accordance with this section 2-370 shall be final. The city shall not be required to refund any portion of a prepayment if (1) the capital cost is less than the amount upon which such prepayment was computed, or (2) annual assessments will not be imposed for the full number of years anticipated at the time of such prepayment.

~~(Ord. No. 2271-2013, § 2.10, 9-23-2013)~~

Sec. 2-371. - Lien of assessments.

(a) Upon adoption of the annual assessment resolution for each fiscal year, assessments to be collected under the Uniform Assessment Collection Act shall constitute 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. Except as otherwise provided by law, such lien shall be superior in dignity to all other liens, titles and claims, until paid. The lien shall be deemed perfected upon adoption by the commission of the annual assessment resolution and shall attach to the property included on the assessment roll as of the prior January 1, the lien date for ad valorem taxes.

(b) Upon adoption of the final assessment resolution, assessments to be collected under the alternative method of collection provided in section 2-382 hereof shall constitute 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. Except as otherwise provided by law, such lien shall be superior in dignity to all other liens, titles and claims, until paid. The lien shall be deemed perfected on the date notice thereof is recorded in the Official Records of Martin County, Florida.

~~(Ord. No. 2271-2013, § 2.11, 9-23-2013)~~

Sec. 2-372. - Revisions to assessments.

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

~~(Ord. No. 2271-2013, § 2.12, 9-23-2013)~~

Sec. 2-373. - Procedural irregularities.

Any informality or irregularity in the proceedings in connection with the levy of any assessment under the provisions of this division 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 proceedings related to such assessment were duly had, taken and performed as required by this division; 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 2-373, any party objecting to an assessment imposed pursuant to this division must file an objection with a court of competent jurisdiction within the time periods prescribed herein.

~~(Ord. No. 2271-2013, § 2.13, 9-23-2013)~~

Sec. 2-374. - Correction of errors and omissions.

(a) No act of error or omission on the part of the commission, assessment coordinator, property appraiser, tax collector, or their deputies or employees, shall operate to release or discharge

any obligation for payment of any assessment imposed by the commission under the provisions of this division.

(b) The number of assessment units attributed to a parcel of property may be corrected at any time by the assessment coordinator. Any such correction which reduces an assessment shall be considered valid from the date on which the assessment was imposed and shall in no way affect the enforcement of the assessment imposed under the provisions of this division. Any such correction which increases an assessment or imposes an assessment on omitted property shall first require notice to the affected owner at the address shown on the tax roll notifying the owner of the date, time and place that the commission will consider confirming the correction and offering the owner an opportunity to be heard.

(c) 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 errors and insolvencies for ad valorem taxes.

~~(Ord. No. 2271-2013, § 2.14, 9-23-2013)~~

Secs. 2-375—2-380. - Reserved.

Subdivision III. - Collection of Assessments

Sec. 2-381. - Method of collection.

Unless directed otherwise by the commission, assessments (other than assessments imposed against government property) shall be collected pursuant to the uniform assessment collection act, and the city shall comply with all applicable provisions thereof, including, but not limited to, (1) entering into a written agreement with the property appraiser and the tax collector for reimbursement of necessary expenses, (2) certifying the assessment roll to the tax collector, and (3) adopting a resolution of intent after publishing weekly notice of such intent for four consecutive weeks preceding the hearing. The resolution of intent may be adopted either prior to or following the initial assessment resolution; provided however, that the resolution of intent must be adopted prior to January 1 (March 1 with consent of the property appraiser and tax collector) of the year in which the assessments are first collected on the ad valorem tax bill. This section shall not be construed to require adoption of an additional resolution of intent, and notice thereof, if a resolution of intent was previously adopted and is currently in effect for the area in question. Any hearing or notice required by this division may be combined with any other hearing or notice required by the Uniform Assessment Collection Act.

~~(Ord. No. 2271-2013, § 3.01, 9-23-2013)~~

Sec. 2-382. - Alternative method of collection.

In lieu of using the Uniform Assessment Collection Act, the city may elect to collect the assessment by any other method which is authorized by law or provided by this section 2-382 as follows:

(1) The city shall provide 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:

a. A brief explanation of the assessment:

b. A description of the assessment units used to determine the amount of the assessment,

c. The number of assessment units attributable to the parcel;

d. The total amount of the parcel's assessment for the appropriate period;

e. The location at which payment will be accepted;

f. The date on which the assessment is due; and

g. A statement that the 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.

(2) A general notice of the lien resulting from imposition of the assessments shall be recorded in the Official Records of Martin County, Florida. Nothing herein shall be construed to require that individual liens or releases be filed in the official records.

(3) The city shall have the right to appoint or retain an agent to foreclose and collect all delinquent assessments in the manner provided by law. An assessment shall become delinquent if it is not paid within 30 days from the due date. The city or its agent shall notify any property owner who is delinquent in payment of an assessment within 60 days from the date such assessment was due. Such notice shall state in effect that the city or its agent will initiate a foreclosure action and cause the foreclosure of such property subject to a delinquent assessment in a method now or hereafter provided by law for foreclosure of mortgages on real estate, or otherwise as provided by law.

(4) All costs, fees and expenses, including reasonable attorney fees and title search expenses, related to any foreclosure action as described herein shall be included in any judgment or decree rendered therein. At the sale pursuant to decree in any such action, the city may be the purchaser to the same extent as an individual person or corporation. The city may join in one foreclosure action the collection of assessments against any or all property assessed in accordance with the provisions hereof. All delinquent property 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 fees, in collection of such delinquent assessments and any other costs incurred by the city as a result of such delinquent assessments including, but not limited to, costs paid for draws on a credit facility and the same shall be collectible as a part of or in addition to, the costs of the action.

(5) In lieu of foreclosure, any delinquent assessment and the costs, fees and expenses attributable thereto, may be collected pursuant to the Uniform Assessment Collection Act; provided however, that:

a. Notice is provided to the owner in the manner required by law and this division; and

b. Any existing lien of record on the affected parcel for the delinquent assessment is supplanted by the lien resulting from certification of the assessment roll to the tax collector.

~~(Ord. No. 2271-2013, § 3.02, 9-23-2013)~~

Sec. 2-383. - Responsibility for enforcement.

The city and its agents, if any, shall maintain the duty to enforce the prompt collection of assessments by the means provided herein. The duties related to collection of assessments may be enforced at the suit of any holder of obligations in a court of competent jurisdiction by mandamus or other appropriate proceedings or actions.

~~(Ord. No. 2271-2013, § 3.03, 9-23-2013)~~

Sec. 2-384. - Government property.

(a) If assessments are imposed against government property, 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:

(1) A brief explanation of the assessment;

(2) A description of the assessment units used to determine the amount of the assessment;

(3) The number of assessment units attributable to the parcel;

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

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

(6) The date on which the assessment is due.

(b) Assessments imposed against government property shall be due on the same date as assessments against other property within the assessment area 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 due date. 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 in effect that the city will 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 or its agents, 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 including, but not limited to, costs paid for draws on a credit facility 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 commission may also contract for such billing services with any utility not owned by the city.

~~(Ord. No. 2271-2013, § 3.04, 9-23-2013)~~

Secs. 2-385—2-400. - Reserved.

Subdivision IV. - Issuance of Obligations

Sec. 2-401. - General authority.

(a) The commission shall have the power and is hereby authorized to provide by ordinance or resolution, at one time or from time to time in series, for the issuance of obligations to fund capital improvements and any amounts to be paid or accrued in connection with issuance of such obligations including but not limited to capitalized interest, transaction costs and reserve account deposits.

(b) The principal of and interest on each series of obligations shall be payable from pledged revenue. At the option of the commission, the city may agree, by ordinance or resolution, to budget and appropriate funds to make up any deficiency in the reserve account established for the obligations or in the payment of the obligations, from other non-ad valorem revenue sources. The commission may also provide, by ordinance or 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 ordinance or resolution shall determine the nature and extent of any pledge of or lien upon proceeds of such non-ad valorem revenue sources.

~~(Ord. No. 2271-2013, § 4.01, 9-23-2013)~~

Sec. 2-402. - Terms of the obligations.

The obligations shall be dated, shall bear interest at such rate or rates, shall mature at such times as may be determined by ordinance or resolution of the 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 commission. Said obligations shall mature not later than 40 years after their issuance. The commission shall determine by ordinance or 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 commission shall determine by ordinance or resolution. The obligations may be delivered to any contractor to pay for the provision of capital improvements or may be sold in such manner and for such price as the commission may determine by ordinance or resolution to be for the best interests of the city.

~~(Ord. No. 2271-2013, § 4.02, 9-23-2013)~~

Sec. 2-403. - Variable rate obligations.

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

~~(Ord. No. 2271-2013, § 4.03, 9-23-2013)~~

Sec. 2-404. - Temporary obligations.

Prior to the preparation of definitive obligations of any series, the 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 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 other than those proceedings, conditions or things which are specifically required by this division.

~~(Ord. No. 2271-2013, § 4.04, 9-23-2013)~~

Sec. 2-405. - Anticipation notes.

In anticipation of the sale of obligations, the commission may, by ordinance or 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 assessments, the proceeds of the notes and such other legally available moneys as the commission deems appropriate by ordinance or 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 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. 2271-2013, § 4.05, 9-23-2013)~~

Sec. 2-406. - Taxing power not pledged.

Obligations issued under the provisions of this division 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 and, if applicable, proceeds of the assessments, in the manner provided herein and by the ordinance or resolution authorizing the obligations. The issuance of obligations under the provisions of this division shall not directly or indirectly obligate the city to levy or to pledge any form of ad valorem taxation whatsoever. 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. 2271-2013, § 4.06, 9-23-2013)~~

Sec. 2-407. - Trust funds.

The pledged revenue received pursuant to the authority of this division shall be deemed to be trust funds, to be held and applied solely as provided in this division and in the ordinance or resolution authorizing issuance of the obligations. Such pledged revenue may be invested by the city, or its designee, in the manner provided by the ordinance or 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. 2271-2013, § 4.07, 9-23-2013)~~

Sec. 2-408. - Remedies of holders.

Any holder of obligations, except to the extent the rights herein given may be restricted by the ordinance or resolution authorizing issuance of the obligations, may, whether at law or in equity, by suit, action, mandamus or other proceedings, protect and enforce any and all rights under the laws of the state or granted hereunder or under such ordinance or resolution, and may enforce and compel the performance of all duties required by this part, or by such ordinance or resolution, to be performed by the city.

~~(Ord. No. 2271-2013, § 4.08, 9-23-2013)~~

Sec. 2-409. - Refunding obligations.

The city may, by ordinance or resolution of the commission, issue obligations to refund any obligations issued pursuant to this division, or any other obligations of the city issued to finance capital improvements, 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 assessments set forth in the notice provided pursuant to section 2-366 hereof, the commission shall provide notice to the affected property owners and conduct a public hearing in the manner required by Subdivision III of this division.

~~(Ord. No. 2271-2013, § 4.09, 9-23-2013)~~

Secs. 2-410—2-420. - Reserved.

Subdivision V. - General Provisions

Sec. 2-421. - Severability.

The provisions of this division 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 division shall not be affected thereby.

~~(Ord. No. 2271-2013, § 5.01, 9-23-2013)~~

Sec. 2-422. - Alternative method.

This division 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 health, safety and welfare of the inhabitants of the city, shall be liberally construed to effect the purposes hereof.

~~(Ord. No. 2271-2013, § 5.02, 9-23-2013)~~