

Article 9. Easements, Utilities, Lighting, Water Conservation, Wells, Stormwater Management, Assessments

9.00.00 Easements, Utilities, Lighting, Water Conservation, Wells, Stormwater Management, Assessment

The purpose of this article is to safeguard the public health, safety, welfare and financial sustainability by securing and protecting easements, lighting, water conservation, wells as well as providing for utilities and stormwater management and providing for assessments.

9.01.00 Easements

Utility and other easements shall be provided as follows:

1. Easements centered on rear or side lot lines shall be provided and be at least fifteen (15) feet in width or as determined necessary by the City.
 2. Prior to issuance of a development permit the city may request an easement for transportation and utility infrastructure. These easements shall be at least fifteen (15) feet in width or as determined necessary by the City.
 3. Contingency easements centered on side lot lines of every lot shall be at least five feet (5') in width for the purpose of repair, extension or maintenance of public facilities and utilities by public agencies; and, may be shown on the plat by note.
 4. As determined by the city to ensure retaining and continued operation of an easement which may be required shall be designated as "to remain unobstructed."
 5. The city is empowered to prohibit structures in easements. Under certain circumstances the city may allow fences or other removable structures in easements, if requested, only after review and approval by the City Administrator or his/her designee.
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9.02.00 Utilities

The purpose of this section is to provide improvement standards relative to utilities and applicable to all development activity within the City. All improvement required by this section shall be designed, installed and paid for by the developer.

9.02.01 General Provisions for All Utilities

9.02.02 Placement of Utilities Underground

All newly installed utility lines (i.e.: telephone, cable television, power) shall be placed underground with the exception of major transmission corridors.

9.02.03 Utility Easements

1. In any case in which a developer installs or causes to be installed water, electrical power, telephone or cable television facilities and intends that such facilities shall be owned, operated or maintained by a public utility or any entity other than the developer, the developer shall transfer to such utility or entity the necessary ownership or easement rights to enable the utility or entity to operate and maintain such facilities.

2. Storm drainage systems and water distribution systems shall be designed by an engineer, installed by the developer or subdivider and approved by the City prior to formal acceptance or ownership by the City.

9.03.00 Electricity

Every principal use and every lot within a subdivision must have available to it a source of electric power adequate to accommodate the reasonable needs of such use and lot within the subdivision. The City shall require connection to the designated Electric Franchise Service Provider.

9.04.00 Telephone and Cable Television Service

Every principal use and every lot within a subdivision must have available to it a telephone and cable television service adequate to accommodate the reasonable needs of such use and lot within the subdivision.

9.05.00 Outdoor Lighting and Road Glare

The purpose and intent of this section is as follows:

- a. To protect against direct glare and excessive lighting;
- b. To eliminate the increase of lighting levels on competing sites;
- c. To provide safe roadways for motorists, cyclists and pedestrians;
- d. To protect and improve the ability to view the night sky, and improve the quality of life;
- e. To prevent light trespass in all areas which natural resources and residentially zoned property;
- f. To promote efficient and cost effective lighting to conserve valuable natural resources;
- g. To ensure that sufficient lighting can be provided where needed to promote safety and security;
- h. To provide lighting guidelines; and,
- i. Guide property owners/occupants on how to bring lighting into conformance.

9.05.01 Light Fixture Source Types Regulated

- A. All of the following light fixture source types and wattages shall be subject to these regulations:
 1. All metal halide, fluorescent, compact fluorescent lamp (CFL), LED lighting (light-emitting diodes), fiber optic and mercury vapor.
 2. High pressure sodium: exceeding thirty-five (35) watts.
 3. Low pressure sodium: exceeding eighteen (18) watts.
 4. Incandescent and quartz-halogen: exceeding forty (40) watts.
 5. Any new technology, or light fixture source types, not included in subsections 1—4 above, which is determined to be compatible with the listed light fixture source types, can be regulated as if listed, as determined by the City Administrator or his/her designee.

- B. Filtering of source types. Mercury vapor, fluorescent, and metal halide lamps shall be installed in light fixtures enclosed by acrylic, translucent material, or glass which filters out ultraviolet light; quartz glass does not qualify.

9.05.02 Light Trespasses

- A. All new and replacement exterior lighting shall utilize Dark Skies Lighting Standards.
- B. All light fixtures, except street lighting, shall be located, designed, aimed, shielded, installed, and maintained to limit illumination only to the target on the lot where the fixture exists, and to minimize light trespass onto any adjacent, abutting or neighboring properties. Non-directional decorative lighting used on single family or duplex dwellings shall be exempt from this provision.
- C. Directional light fixtures such as floodlights, wall pack lights, sconces, and spotlights shall be aimed so that the center of the beam is not more than sixty-two (62) degrees away from the ground. Directional luminaries shall be shielded as needed for minimizing misdirected light.
- D. With the exception of lighting for flagpoles and accent lighting, all commercial lighting referenced to and focused upward from the ground is hereby prohibited. Existing commercial lighting facilities which are not consistent with this requirement are determined to be nonconforming facilities.

9.05.03 Glare Control

- A. All lighting including, but not limited to, parking and building lighting, shall be focused, directed, and arranged so as to avoid producing glare and/or becoming a nuisance, a traffic or safety hazard.
- B. Partial or full shielding may be required for any light source to eliminate glare.
- C. Site lighting using spot or floodlight fixtures mounted on building walls, roofs, or poles shall be shielded, and angled downward, so that the light shines at a maximum of minus sixty-two (-62) degrees as measured from the vertical line created from the center of the light fixture down to the ground, and the light shall not cause glare or light trespass on any adjacent, abutting or neighboring properties. Under no circumstances shall LED lighting be used for site lighting.
- D. The use of fixtures with motion detectors, photocells, or timers that allow a floodlight to turn on at dusk and turn off by 11:00 p.m. shall be encouraged.

9.05.04 Commercial business lighting

- A. Lighting plan review and permit.
 - 1. *Permit required.* All commercial electrical installations require a permit and must be performed by a licensed electrical contractor.
 - 2. *New site plan.* When a new site plan is proposed which includes site lighting installations, the applicant must submit a lighting plan for review to determine consistency with these regulations, which must be approved prior to the commencement of construction.
 - 3. *Sports complex.* Sports complexes must comply with commercial business lighting regulations.
- B. *Design standards.*

1. All new commercial lighting will be required to utilize Dark Skies Lighting Standards
The purpose of the Dark Skies Lighting Standards is to protect and promote the public health, safety and welfare by permitting reasonable uses of exterior lighting for nighttime safety, utility, security, and enjoyment while minimizing light pollution and the adverse impacts of exterior lighting on wildlife habitat and human health.
2. When a commercial site abuts residentially zoned property the lighting must be designed and installed to direct light both vertically down and completely away from the residential property, and under no circumstances shall LED lighting be permitted to be located on the side of the property which abuts a residentially zoned property.
3. Whenever possible, all site lighting, and specifically illumination for parking areas, must be planned and installed to be as minimally intrusive to residentially zoned property as possible.

9.05.05 Restrictions on lighting

It is the policy of the City Commission to minimize artificial light illuminating the entire city. The purpose and intent of this section is to protect and conserve the natural resources and prevent light trespass onto adjoining properties within the city.

9.05.06 Federal, state and county regulations

Such restrictions as shall have been adopted by the federal, state or county governments or administrative agencies are and remain in full force and effect.

9.05.07 Violations and Enforcement

- A. It shall be unlawful to install, erect, construct, enlarge, alter; repair, move, improve, convert, or operate a light fixture in violation of this section.
- B. The city is authorized to order the modification of any light fixture that it finds to be a definite hazard or gross nuisance to the public and particularly a light fixture that causes objectionable glare to the users of a roadway.
- C. Violations and enforcement of these provisions shall be in accordance with those procedures identified in Article 15.

9.06.00 Municipal Street Lighting

It is the policy of the City of Lake Helen, Florida to provide illumination of the streets, avenues and public areas of the City in the interest of public safety.

Further, it is the intent of the City of Lake Helen through this policy, to reduce the risk of accident by the public when traveling upon said streets, avenues and public areas. It is not the intent of this policy to provide security lighting for individual businesses or residences.

9.06.01 Municipal Street Lighting Procedure

In order to establish uniformity in the installation, location and relocation of municipal lighting within the Corporate limits of the City of Lake Helen, Florida, the following criteria shall be used:

1. All lighting installed upon streets, avenues or public areas shall be 100 Watt Sodium Vapor lamps, or their equivalent, as approved by the appropriate regulatory agency.
2. Said lamps shall only be installed on open, dedicated public right-of-way or other public areas.

3. No lamps shall be installed by or for the City on private property.
4. Lamps shall be installed at the intersection of all right-of-way or at the nearest practical location adjacent thereto.
5. The minimum distance between lamps in a residentially built-up area shall be three hundred (300) feet or as close thereto as is practical consistent with available lamp standards (light poles).
6. The maximum distance between lamps in a residentially built-up area shall be six hundred (600) feet or as close thereto as is practical consistent with available lamp standards (light poles).
7. Special conditions not consistent with the above, such as blind curves, shall be considered on the basis of the potential danger to travelers of right-of ways and lighting of special conditions shall be by approval of the City Commission.
8. Existing street lighting not in conformance with the provisions of this policy shall be removed or relocated wherever practical to comply with the provisions of this policy.
9. Rural right-of-way, such as open land or grove areas, shall be lighted only at intersections.

9.07.00 Water

9.07.01 Development Requirements

Each lot in a subdivision shall be provided with a connection to an appropriate water supply provided that the existing water service is capable of servicing and supplying the necessary water. The owner, at his expense, shall furnish and install such water distribution system from plans and specifications approved by the Florida State Board of Health (or other state agencies with jurisdictions over such matters at that time) and the City Commission, and in addition shall install fire hydrants and mains not less than six inches (6") in diameter and placed so that no residence or structure is more than 600 feet from such hydrant. Said water distribution system shall be so constructed as to allow it to be joined with the City water distribution system at the property line nearest the City existing lines. Fire hydrants and shut-off valves shall be of the type, size and brand specified by and approved by the City of Lake Helen.

9.07.02 Classification of Service.

1. Single Family Dwellings: This category applies to Single Family dwellings.
2. All Others: This category applies to all services not classified as single family dwellings.

9.07.03 Application for Service.

The customer will make application for service with the city, and shall make the necessary deposit and connection fees. Fees are set forth in the schedule of fees as adopted by Resolution set by the City Commission. No action shall be taken on an application until all applicable fees are paid.

It is mandatory that all residences, dwellings, or units be connected to the City Water Service provided that the existing water service is capable of servicing and supplying the necessary water to the customer. In the event the customer fails to connect with the water services provided by the City, and the existing City water service is capable of supplying that customer, the customer shall be charged a minimum water usage fee. However, private wells that are supplying these water services prior to the adoption of these regulations are exempted from this provision.

9.07.04 Deposits

Service Deposits shall be set and amended as necessary by the City Commission by resolution.

The State, its departments and agencies, the County and its departments and agencies, and all other governmental entities are hereby exempt and shall not be required to post water Service Deposits in order to obtain such services from the City.

9.07.05 Water Connection Fees

For each connection for water service made by the City the user shall pay fees set forth in the schedule of fees as adopted by Resolution set by the City Commission. No action shall be taken on an application until all applicable fees are paid. The fee shall be paid upon application for service.

9.07.06 Installation and Maintenance Requirements

The property owner or customer is responsible for installing and maintaining the water service line extending to the meter. A back-flow valve is required for Commercial Uses to be installed at the meter and the customer is required to pay for the valve and its maintenance. An annual inspection is required with results sent to the Public Works Superintendent or his/her designee.

9.07.07 Rate for Water Service (All Services)

Minimum charges and rates for all water services shall be determined and amended as deemed necessary by the City Commission by Resolution.

All customers or required customers, shall pay the minimum water service charge whether or not such service is utilized.

9.07.08 Billing Procedures

Meters will be read on a frequency as set by the City Commission.

Non-payment after twenty (20) days of the billing date, will be subject to a penalty determined and amended as deemed necessary by the City Commission by Resolution.

Non-payment after thirty (30) days of the billing date, will result in the water being shut off and shall not be reconnected until all delinquent penalties have been fully paid, together with a reconnect fee to be determined and amended by the City Commission by Resolution. The customer shall be responsible for payment of a reasonable attorney's fee plus cost for collection of delinquent water service accounts. All unpaid accounts after three (3) months will be reported to the Credit Bureau. The water utility will impose a twelve percent (12%) per annum interest charge on all uncollected accounts.

9.07.09 Returned Checks

A charge determined by the City Commission and amended as deemed necessary by Resolution will be imposed for each check returned for insufficient funds.

9.07.10 Suspension of Service

Customers requesting the temporary discontinuance or suspension of City water service shall be charged the minimum water service charge for the period of time of discontinuance or suspension. A reconnect fee will not be imposed.

9.07.11 Unlawful Connection

No person shall be allowed to connect into the city water service unless approved by the City. Connection to the service shall only be made under the direction and supervision of the appropriate city official. Any person who violates this provision commits a misdemeanor of the second degree punishable by a fine of \$500.00.

9.07.12 Tampering

No person shall tamper, destroy, alter or injure in any way the city water lines, meters, meter seals or any other apparatus or device. Any person who violates this provision commits a misdemeanor of the second degree punishable by a fine of \$500.00.

9.07.13 No Exemptions

No person, firm, corporation, or government entity is exempt from this regulation.

9.07.14 Service Metered Separately

Each new residence, dwelling, or unit, whether residential or commercial, shall be metered separately, if water service available, after adoption of these regulations.

9.07.15 Cross Connection Control Program

1. The Public Works Superintendent or his/her designee shall cause inspections to be made of all properties served by the public potable water supply where cross-connections with the public potable water supply are deemed possible. The frequency of inspections and re-inspections based on potential health hazards involved shall be as established by the Manual of Cross-Connection Control of the department of public works of the City and in no case shall be less than once per year. Any fees or charges established by the City pursuant to the regulations or requirements established herein may be changed from time to time by resolution of the City Commission. Fees are set forth in the schedule of fees as adopted by Resolution set by the City Commission. No action shall be taken on an application until all applicable fees are paid.
2. Duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter any building, structure or property served by a connection to the public potable water supply of the City for the purpose of inspecting the piping system or systems on such property. Consent to such access shall be obtained from a person of suitable age and discretion therein or in control thereof. The refusal of such information or refusal of access, when requested, shall be deemed evidence of the presence of cross-connections.
3. The Public Works Superintendent or his/her designee is hereby authorized and directed to discontinue potable water service to any property, after notice, wherein any connection in violation of this article exists and to take other such precautionary measures deemed necessary to eliminate any danger of contamination of the public potable water supply system. Water service to such property shall not be restored until the cross-connection(s) has been eliminated in compliance with the provisions of this section.
4. The potable water supply made available on the properties served by the public potable water supply system shall be protected by present or possible future contamination as specified by this section and by state and Florida Building Code. Any water outlet which could be used for potable or domestic purposes and which is not supplied by the potable

system must be labeled WATER UNSAFE FOR DRINKING or NONPOTABLE WATER in a conspicuous manner.

5. The consumer shall bear all expense of installing, testing and maintaining the protective devices required by this article to ensure proper operation on a continuing basis. Installation, testing and maintenance of protective devices shall be conducted by certified personnel approved by the city's department of public works. The consumer shall notify the city's department of public works at least forty-eight (48) hours in advance in writing when the tests are to be undertaken so that it may have a representative witness the tests if it is so desired. The consumer shall keep records on his testing, maintenance and repair activities related to cross-connection control and shall make these records available upon request. Copies of all testing, maintenance and repair records shall be sent to the city's department of public works immediately after the work is performed.
6. Section 9.07 does not supersede the Florida Building Code, the Florida State Department of Health Guidelines or any city ordinance but is supplementary to them; where conflicts exist, the more restrictive provision shall apply.
7. Any person or customer found guilty of violating any of the provisions of section 9.07 or any written order of the City or pursuant thereof shall be subject to the provisions of Article 15. In addition, such person or customer shall pay all costs and expenses involved in the case to include attorney's fees. Notice of such violation shall be given by delivering the same to the premises and a copy thereof mailed to the billing address as appears on the City's billing records. Each day upon which a violation of the provisions of section 9.07 shall occur shall be deemed a separate and additional violation. Any person or customer in violation of any of the provisions of section 9.07 shall become liable to the City for any expense, loss or damage incurred by the City by reason of such violation to include attorney's fees. In addition to any penalty provided by law for the violation of any of the provisions of section 9.07, the City may bring suit in the appropriate court to enjoin, restrain or otherwise prevent the violation of any of the provisions of this section.
8. No provisions of this section designating the duties of any City officer or employee shall be so construed as to make such officer or employee liable for any fine or penalty for failure to perform such duty.
9. All territory within the City and the County of Volusia served by the City's potable water system shall be governed by this section to the extent permitted by law.

9.07.16 Water Conservation and Restrictions

The City Commission shall be empowered and is hereby authorized to impose whatever controls and restrictions on water usage within the corporate limits of the City it deems necessary to comply with the St. Johns River Water Management District orders relating to water conservation.

1. The controls and restrictions may include, but shall not be limited to:
 - a. Reduction of pressure in the City water supply;
 - b. Prohibiting of nonessential residential use, such as car washing, landscape irrigation, washing down of buildings or driveways;
 - c. Discontinuance of routine flushing of mains and hydrants;
 - d. Restricting the outside use of water to certain hours and certain days;

- e. Imposing rationing on all meter service;
- f. The consideration of adopting an escalating block rate charge for water system customers;
- g. The banning of water use from fire hydrants and standpipes for any purpose except legitimate fire-fighting activities.

2. General Restrictions on Water Use:

- a. Excessive or unnecessary water use. Excessive, wasteful and unnecessary water use is hereby prohibited. Excessive, wasteful and unnecessary water use includes, but is not limited to:
 - I. Allowing water to be dispersed without any practical purpose to the water user, regardless of the type of water use.
 - II. Allowing water to be dispersed in a grossly inefficient manner, regardless of the type of water use.
 - III. Allowing water to be dispersed to accomplish a purpose for which water use is unnecessary or which can be readily accomplished through alternative methods of significantly less water use.
- b. Discharge of groundwater used in heating or air-conditioning systems. All groundwater utilized in water-to-air heating and air-conditioning systems must be directed to landscape irrigation systems, groundwater injection or exfiltration systems. Off-site discharge from heating and air-conditioning systems is prohibited.
- c. All automatic landscape irrigation systems shall be equipped with rain sensor devices

The City Commission, in order to provide the necessary levels of year round water conservation and provide for the most logical transition to declare water shortage, water shortage emergency or the St. Johns River Management District water shortage plan, shall establish the following levels of water conservation and use:

- I. Base Water Conservation Level. This level is as follows:
 - 1. The use of water for landscape irrigation is allowed only during the following times: Three (3) days a week from 4:00 a.m.-8:00 a.m. and 4:00 p.m.-8:00 p.m. (5:00 p.m.-9:00 p.m. during daylight savings time) for manual irrigation systems and 4:00 a.m.-8:00 a.m. only for automatic irrigation systems.
 - 2. Even numbered addresses and residences without address numbers may water at these times on Tuesdays, Thursdays and Sundays, odd numbered addresses on Mondays, Wednesdays and Saturdays. On Fridays no watering is permitted.
 - 3. The use of water for irrigation from a reclaimed water system is allowed anytime provided appropriate signs are placed on the property to inform the general public and District enforcement personnel of such use. For the purpose of this paragraph, a reclaimed water system includes systems in which the primary source is reclaimed water, which may or may not be supplemented by water from another source during peak demand periods.

4. Irrigation of new landscape plantings is allowed any day, except between 10:00 a.m. and 4:00 p.m., for one (1) thirty (30)-day period, provided irrigation is limited to the amount necessary for plant establishment.
 5. Watering of chemicals, including insecticides, pesticides, fertilizers, fungicides, and herbicides, when required by law, the manufacturer, or best management practices, is allowed anytime within twenty-four (24) hours of application.
 6. Irrigation systems may be operated anytime for maintenance and repair purposes, not to exceed ten (10) minutes per hour per zone.
 7. Excessive use of water for landscape irrigation or over watering of landscaping is prohibited. Overspray of irrigation water onto impervious surfaces is prohibited.
 8. Mobile equipment washing shall utilize an automatic shutoff/self-canceling spray nozzle. Mobile equipment washing shall be on pervious surfaces whenever feasible or at a commercial water recycling automobile wash.
 9. The washing of sidewalks, walkways, driveways, parking lots, tennis courts and all other impervious areas shall utilize an automatic shutoff/self-canceling spray nozzle or low volume pressure cleaning. Excessive use of water for washing of impervious areas is prohibited. Runoff from impervious surface washing shall be directed as much as possible towards pervious areas.
 10. Filling or refilling of swimming pools, except as necessary during construction process, repairs, or following any voluntary cessation of use of the pool to prevent the leakage of water, and except as necessary to raise the level of water to allow the pool's skimmer to properly function, is prohibited. The continuous refilling of swimming pools while a leak is occurring is hereby prohibited.
- II. *Level II. Water Conservation Level.* Level II shortage corresponds to the St. Johns River Water Management District's Phase II Sever Water Shortage Plan and all provisions therein as set forth in Rule 40C-21.631, *Florida Administrative Code*. In addition, the use of water for landscape irrigation purposes by manual irrigation systems is allowed during the evening from 4:00 p.m. - 8:00 p.m. (5:00 p.m. - 9:00 p.m. during daylight savings time) on specific days and street addresses permitted by the St. Johns River Water Management District in the above-described Phase II - Sever Water Shortage Plan requirements. In the event the District declares a Phase II - Sever Water Shortage Plan, the District requirements shall supersede this provision.
- III. *Level III. Water Conservation Level.* Level III shortage corresponds to the St. Johns River Water Management District's Phase III Extreme Water Shortage Plan and all provisions therein as set forth in Rule 40C-21.641, *Florida Administrative Code*. In addition, the use of water for landscape irrigation purposes by manual irrigation systems is allowed during the evening from 4:00 p.m. - 7:00 p.m. (5:00 p.m. - 8:00 p.m. during daylight-savings time) on the specific days and street address permitted by the St. Johns River Water Management District in the above-described Phase III - Extreme Water Shortage Plan requirements. In the event the District declares a Phase III - Extreme Water Shortage Plan, the District requirements shall supersede this provision.
- IV. *Level IV. Water Conservation Level.* Level IV Shortage corresponds to the St. Johns River Water Management District Phase IV Critical Water Shortage Plan and all provisions

therein as set forth in Rule 40C-21F.651, Florida Administrative Code. In addition, the use of water for landscape irrigation purposes by manual irrigation systems is allowed during the evening, from 6:00 p.m. - 7:00 p.m. on the specific days and street addresses permitted by the St. Johns River Water management District in the above-described Phase IV - Critical Water Shortage Plan requirements. In the event the District declares a Phase IV - Critical Water Shortage Plan, the District requirements shall supersede this provision.

9.07.17 Regulation of Wells

1. Any person desiring to strike, sink, dig or drill any shallow or deep well within the limits of the City shall apply to the Volusia County Health Department or specified State Regulatory Agency for a permit with a copy forwarded to the City Clerk.
2. Any person applying for such permit to strike, sink, dig or drill a well in accordance with the terms of this article and state regulations, shall, before receiving such permit, pay to the city a permit fee as established by the City Commission by resolution.
3. No permit shall be issued for any well serving a private, public or commercial water supply without prior approval of the Volusia County Health Department or specified State Regulatory Agency, and further providing that any well shall be located more than fifty feet (50') from any active septic tank, drain field, dry well or other waste disposal facility or as dictated by State Regulations.
4. All wells dug or drilled shall be constructed and regulated with a cap or valve, and all wells shall be capped or the valves turned off when not being used, and water from the wells shall not be allowed to accumulate and stand as stagnant water. The City shall have the right and authority to immediately cap and keep closed any well found to be in violation of this section.
5. It shall be unlawful for any person to make any connection into any waterlines connected with the supply system of the City, either upon public or private property, or for the owner, agent, tenant, manager or any person having interests in any property within the City to permit to be constructed in or upon such property, any such connections between waterlines of the waterworks system of the City and any waterwell.
6. No drainage well shall be permitted, except in closed circuit systems after written approval by both the City and the Volusia County Health Department or specified State Regulatory Agency.
7. The City, through its commissioners, officers, agents and employees, shall have at all times, the right of access to any property upon which a well is located, for the purposes of inspecting the same or otherwise regulating the operation of the well under the terms of this section.

9.08.00 Wastewater Systems

Septic tanks shall be installed consistent with the requirements of Chapter 100-6, F.A.C. and the requirements of the City of Lake Helen Comprehensive Plan. All septic tanks shall be properly maintained.

9.09.00 Assessments

Article VIII, section 2 of the Florida Constitution and Section 166.021, Florida Statutes, grant the City all governmental, corporate, and proprietary powers to enable the City 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.

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

The Assessments imposed pursuant to this Ordinance will be imposed by the City Commission, not the Property Appraiser or Tax Collector. Any activity of the Property Appraiser or Tax Collector under the provisions of this Ordinance shall be construed solely as ministerial.

9.09.01 Authority and Purpose

The City 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.

9.09.02 Creation of Assessment Areas

1. The City 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.
2. At its option, the City 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 City Commission shall retain the authority to create Assessment Areas without a landowner petition.

9.09.03 Initial Assessment Resolution

The initial proceeding for imposition of an Assessment shall be the City Commission's adoption of an Initial Assessment Resolution. The Initial Assessment Resolution shall:

- A. describe the proposed Assessment Area;
- B. describe the Capital Improvements or Essential Services proposed for funding from proceeds of the Assessments;
- C. estimate the Service Cost or Capital Cost;
- D. establish a Maximum Assessment Rate if desired by the City Commission;

- E. describe with particularity the proposed method of apportioning the Service Cost or Capital Cost among the parcels of property located within the Assessment Area, including any applicable Assessment Unit;
- F. include specific legislative findings that recognize the equity provided by the apportionment methodology;
- G. schedule a public hearing at a meeting of the City 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
- H. direct the Assessment Coordinator to (1) prepare the Assessment Roll pursuant to Section 9.09.04 hereof, (2) publish the notice required by Section 9.09.05 hereof, and (3) mail the notice required by Section 9.09.06 hereof using information then available from the Property Appraiser.

9.09.04 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.

9.09.05 Notice by Publication

After filing the Assessment Roll in the office of the Assessment Coordinator, as required by Section 9.09.04B thereof, the Assessment Coordinator shall publish once in a newspaper of general circulation within Volusia County a notice stating that at a meeting of the City Commission on a certain day and hour, not earlier than 20 calendar days from such publication, which meeting shall be a regular, adjourned or special meeting, the City Commission will hear objections of all interested persons to the Final Assessment Resolution 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 (A) a geographic depiction of the property subject to the Assessment; (B) the proposed schedule of the Assessment; (C) the method by which the Assessment shall be collected; (D) the Maximum Assessment Rate in the event one was adopted in the Initial Assessment Resolution; and (E) 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. Notwithstanding anything herein to the contrary, notice of a proposed Assessment may be given in any manner authorized by law.

9.09.06 Notice by Mail

In addition to the published notice required by 9.09.05 Notice by Publication 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 (A) the purpose of the Assessment; (B) the total 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; (C) the Assessment Unit to be applied to determine the Assessment; (D) the number of such Assessment Units contained in each parcel; (E) the total revenue to be collected by the Assessment; and (F) 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; (G) a statement that all affected property owners have a right to appear at the hearing and to file written objections with the City Commission within 20 days of the notice; and (H) the date, time and place of the hearing. 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 at least thirty (30) days prior to the date of mailing; provided, however, that failure to mail or receive such notice shall not invalidate any Assessment imposed hereunder. 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 herein to the contrary, notice of a proposed Assessment may be given in any manner authorized by law.

9.09.07 Adoption of Final Assessment Resolution

- A. At the time named in such notices, or to which an adjournment or continuance may be taken, the City Commission shall conduct a public hearing to receive written objections and hear testimony of interested persons and may then, or at any subsequent meeting of the City Commission, adopt the Final Assessment Resolution which shall:
1. confirm, modify or repeal the Initial Assessment Resolution with such amendments, if any, as may be deemed appropriate by the City Commission;
 2. 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 and when collection shall commence.
- B. In any instance where the public hearing is adjourned or continued prior to adoption of the Final Assessment Resolution or any Annual Assessment Resolution requiring mailed notice as provided in Section 9.09.08 hereof, the City shall not be required to provide additional notices pursuant to Sections 9.09.05 Notice by Publication and/or 9.09.06 Notice by Mail. hereof, provided:
1. The public hearing is continued to a time and date certain as determined by majority vote of the City Commission at the public hearing included in the original mailed notices; and

2. Such time and date certain is within sixty (60) days of the public hearing date included in the original mailed notices.

9.09.08 Annual Assessment Resolution

The City Commission shall 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 9.09.05 Notice by Publication and/or 9.09.06 Notice by Mail hereof or if an Assessment is imposed against property not previously subject thereto, the City Commission shall provide notice to the owner of such property in accordance with 9.09.06 Notice by Mail hereof and conduct a public hearing prior to adoption of the Annual Assessment Resolution. In the case of an Annual Assessment Resolution which approves an Assessment against property not previously subject thereto, notice and public hearing shall not be required if all owners of the newly affected property provide written consent to the imposition of the Assessment. Failure to adopt an Annual Assessment Resolution during the budget adoption process may be cured at any time.

9.09.09 Effect of Assessment Resolutions

The adoption of the Final Assessment Resolution or of an Annual Assessment Resolution requiring notice as provided in Section 9.09.08 Annual Assessment Resolution 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 City 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.

9.09.10 Repayment of Assessments

- A. Unless determined otherwise in the applicable Initial Assessment Resolution, Final Assessment Resolution or any Annual Assessment Resolution, 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 City 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 City 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 Section 9.09.10 (A)(1) hereof, or such later date as the City 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 Section 9.09.10 (A)(2) hereof.
 - C. The amount of all prepayments computed in accordance with this Section 9.09.10 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.

9.09.11 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 City 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 9.09.17 Alternative Method of Collection 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 Volusia County, Florida.
- C. The lien of any Assessment imposed against any tax parcel hereunder shall survive a tax sale, and the purchaser of such parcel shall take title thereto subject to the lien of the Assessment.

9.09.12 Revisions to Assessments

If any Assessment made under the provisions of this Article is either in whole or in part annulled, vacated or set aside by the judgment of any court, or if the City Commission is satisfied that any such Assessment is so irregular or defective that the same cannot be enforced or collected, or if the City Commission has omitted the inclusion of any property on the Assessment Roll which property should have been so included, the City Commission may take all necessary steps to impose a new Assessment against any property benefited by the Capital Improvement or Essential Service, following as nearly as may be practicable the provisions of this Article, and in case such second Assessment is annulled, the City Commission may levy and impose other Assessments until a valid Assessment is imposed.

9.09.13 Procedural Irregularities

Any informality or irregularity in the proceedings in connection with the levy of any Assessment under the provisions of this Ordinance shall not affect the validity of the same after the approval thereof, and any Assessment as finally approved shall be competent and sufficient evidence that such Assessment was duly levied, that the Assessment was duly made and adopted, and that all proceedings related to such Assessment were duly had, taken and performed as required by this Ordinance; and no variance from the directions hereunder shall be held material unless it be clearly shown that the party objecting was materially injured thereby. Notwithstanding the provisions of this Section 9.09.13: Procedural Irregularities., any party objecting to an Assessment imposed pursuant to this Ordinance must file an objection with a court of competent jurisdiction within the time periods prescribed herein.

9.09.14 Corrections of Errors and Omissions

- A. No act of error or omission on the part of the City 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 City Commission under the provisions of this Ordinance.
- B. The number of Assessment Units attributed to a parcel of property may be corrected at any time by the Assessment Coordinator, including upon presentation of competent substantial evidence by the owner of such parcel. 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 Ordinance. 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 City 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.

9.09.15 Collection of Assessments

9.09.16 Method of Collection

Unless directed otherwise by the City 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 Ordinance may be combined with any other hearing or notice required by the Uniform Assessment Collection Act.

9.09.17 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 9.09.17 as follows:

- A. 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 (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, (6) the date on which the Assessment is due, and (7) 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.
- B. A general notice of the lien resulting from imposition of the Assessments shall be recorded in the Official Records of Volusia County, Florida. Nothing herein shall be construed to require that individual liens or releases be filed in the Official Records.
- C. 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 thirty (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 sixty (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.
- D. 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.

- E. 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 (1) notice is provided to the owner in the manner required by law and this Ordinance, and (2) 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.

9.09.18 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.

9.09.19 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 thirty (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 sixty (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 City Commission may also contract for such billing services with any utility not owned by the City.

F. Nothing herein shall require the imposition of Assessments against Government Property.

9.09.20 Issuance of Obligations

9.09.21 General Authority

- A. The City 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 City 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 City 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.

9.09.22 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 City Commission, and may be made redeemable before maturity, at the option of the City, at such price or prices and under such terms and conditions, all as may be fixed by the City Commission. Said Obligations shall mature not later than forty (40) years after their issuance. The City 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 City 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 City Commission may determine by ordinance or resolution to be for the best interests of the City.

9.09.23 Variable Rate Obligations

At the option of the City Commission, Obligations may bear interest at a variable rate.

9.09.24 Temporary Obligations

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

9.09.25 Anticipation Notes

In anticipation of the sale of Obligations, the City 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 City Commission deems appropriate by ordinance or resolution. Said notes shall mature within five (5) years of their issuance and shall bear interest at a rate not exceeding the maximum rate provided by law. The City Commission may issue Obligations or renewal notes to repay the notes. The notes shall be issued in the same manner as the Obligations.

9.09.26 Taxing Power Not Pledged

Obligations issued under the provisions of this Ordinance shall not be deemed to constitute a general obligation or pledge of the full faith and credit of the City within the meaning of the Constitution of the State of Florida, but such Obligations shall be payable only from Pledged Revenue 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 Ordinance 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.

9.09.27 Trust Funds

The Pledged Revenue received pursuant to the authority of this Ordinance shall be deemed to be trust funds, to be held and applied solely as provided in this Ordinance and in the 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.

9.09.28 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.

9.09.29 Refunding Obligations

The City may, by ordinance or resolution of the City Commission, issue Obligations to refund any Obligations issued pursuant to this Ordinance, 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 2.06 hereof, the City Commission

shall provide notice to the affected property owners and conduct a public hearing in the manner required by Article III of this Ordinance.

9.10.00 Stormwater Management Utility

9.10.01 Authority

The City Commission is authorized by the home rule power of Article VIII, 2(b), Florida Constitution, Chapter 166, Florida Statutes and Section 403.0893, Florida Statutes, to establish a stormwater management utility and declare its intention to acquire, own, construct, operate and maintain open drainageways, underground storm drains, treatment facilities, equipment and appurtenances necessary, useful or convenient for a complete stormwater management system, and also including maintenance, extension and construction of the present stormwater management system of the city; to minimize by suitable means the system's contribution to flooding; to minimize by suitable means the system's adverse effect on the water quality of lakes, ponds, rivers and basins within the city and to seek the cooperation of the county and other municipalities in minimizing the effects of all such systems and other sources of accelerated runoff to the flooding and water quality, and to establish just and equitable fees and charges for the services and facilities provided for such systems.

9.10.02 Purpose and Intent

1. That the Legislature of the State of Florida has adopted Section 403.893, Florida Statutes, stormwater management legislation which encourages proper management of stormwater runoff and water quality.
2. That there is a desire to develop a stormwater management program, to be responsible for the operation, construction, and maintenance of stormwater devices and for stormwater system planning.
3. That the cost of operating and maintaining the city's stormwater management system and financing of existing and future necessary repairs, replacements, improvements, and extensions thereof, should, to the extent practicable, be allocated in relationship to the benefits enjoyed and services received therefrom.
4. That the ability of the City to effectively conserve, manage, protect, control, use, and enhance the water resources of the City is dependent on the provision of adequate, equitable and stable funding for the stormwater management program.
5. That the stormwater management system including the components which provide for the collection of and disposal of stormwater and regulation of groundwater, is of benefit and provides services for the welfare of Lake Helen and all of its citizens.
6. That the formation of a stormwater utility, the establishment of a separate fund for accounting of the revenues, expenditures, assets, and earnings of the utility, and adoption or various rates, fees, charges, rentals, fines, and penalties are necessary to meet the needs identified in engineering reports.
7. That proper stormwater management may protect, restore, and maintain the chemical, physical, and biological integrity of community waters; minimize the transport of pollutants to community waters; maintain or restore groundwater levels; protect, maintain, or restore natural salinity levels in estuarine areas.

8. That the adoption of this Ordinance is necessary to protect the public health, safety, and welfare of the citizens of Lake Helen.

9.10.03 Stormwater Management Utility - Fee Imposed

1. Charges and fees are to be levied against all real property within the city to accomplish the purpose and intent of the utility. A uniform schedule of charges and fees for the services and uses of the facilities of the stormwater management system by the owner of real property using the services and facilities of the system.
2. A stormwater utility fee is hereby imposed for the general purposes described in section B. above. Said fee shall be in the form of a special assessment (non-ad valorem) on Volusia County's tax bill and the amount shall be based on the lot/parcel classification as listed in section D.
3. The amount of said stormwater utility fees shall be set and may be amended by resolution of the City Commission.

9.10.04 Lot/Parcel Classification

1. A stormwater fee is hereby imposed upon all real property within the City unless otherwise exempt for services and facilities provided by the stormwater management utility system. For purposes of imposing the stormwater fee, all real property within the City with an Equivalent Residential Unit (ERU) of 2067 square feet of man-made impervious area will be assessed.
2. The County tax rolls will be used to prepare a list of lots and parcels within the City and to assign the Equivalent Resident Unit (ERU).

9.10.05 Stormwater Management Fund

Stormwater management utility fees collected shall be paid into a separate fund to be known as the "stormwater management fund". Such fund shall be used for the purpose of paying the cost of stormwater drainage facilities to be constructed and paying the cost of operation, administration and maintenance of the stormwater system of the City. To the extent that the stormwater management fees collected are insufficient to construct the needed stormwater system, the cost of the same may be paid from such city fund as may be determined by the City Commission, but the City Commission may order the reimbursement of such fund if additional fees are thereafter collected. When the fund has surplus dollars on hand in excess of current needs, the surplus dollars will be invested to return the highest yield consistent with proper safeguards.

The fees and charges paid shall not be used for general or other governmental or proprietary purposes of the city, except to pay for the equitable share of the cost of accounting, management and government thereof. Other than as described above, the fees and charges shall be used solely to pay for the cost of operation, repair, maintenance, improvements, renewal, replacement, design, right-of-way acquisition and construction of public stormwater management facilities and costs incidental thereto.

9.10.06 Enforcement

Authorized employees of the City, bearing proper credentials and identification shall be permitted to enter all properties tributary to the City's stormwater management system for the purposes of inspections, observations, measurement and testing in accordance with the provisions of this article and any rules or regulations adopted pursuant hereto.

Any person violating any of the provisions of this article shall be punished under Article XIV, Administration and Enforcement of the City Ordinances, and shall become liable to the City for any expense, loss or damage occasioned by the City by reason of such violation to include reasonable attorney's fees whether or not litigation is necessary.

9.10.07 Exemptions

The following property shall be exempt from Stormwater Management Utility fees:

1. public right-of-ways
2. lakes
3. ponds
4. retention/detention areas
5. jurisdiction wet lands
6. vacant unimproved land in its natural state