

**SUN 'N LAKE OF SEBRING  
IMPROVEMENT DISTRICT  
CHARTER**

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**ARTICLE V. SUN 'N LAKE OF SEBRING  
IMPROVEMENT DISTRICT\***

**DIVISION I. GENERALLY**

**Sec. 9-81. Definitions.**

Unless the context shall indicate otherwise, the following words as used in this article shall have the following meanings

*Assessable improvements* includes without limitation any and all land reclamation works and facilities, sewer systems, storm sewers and drains, water systems, streets, roads, bridges or other projects of the district, or that portion or portions thereof, local in nature and of special benefit to the premises or lands served thereby, and any and all modifications, improvements and enlargements thereof.

*Board of supervisors* means the board of supervisors of the Sun 'n Lake of Sebring Improvement District, or if such district shall be abolished, the board, body or commission succeeding to the principal functions thereof or to whom the powers given by this article to the board of supervisors, shall be given by law.

*Bond* includes "certificate," and provisions applicable to bonds shall be equally applicable to certificates. "Bond" includes general obligation bonds, assessment bonds, refunding bonds, revenue bonds and such other obligations in the nature of bonds as are provided for in this article, as the case may be.

*Cost*, when used with reference to any project, includes, but is not limited to, the expenses of determining the feasibility or practicability of acquisition, construction or reconstruction; the cost of surveys, estimates, plans and specifications; the cost of acquisition, construction and reconstruction; the cost of improvements; engineering, architectural, fiscal and legal expenses and charges; a reserve for contingencies; the cost of all labor, materials, machinery and equipment; the cost of all lands, properties, rights, easements and franchises acquired; federal, state and local taxes and assessments; financing charges; the creation of initial reserve and debt service funds; working capital; interest charges incurred or estimated to be incurred on money borrowed prior to and during construction and acquisition and for such period of time after completion of construction or acquisition as the board of supervisors may determine; the cost of issuance of bonds pursuant to this article, including advertisements and printing; the cost of any election held pursuant to this article and all other expenses of issuance of bonds; discount, if any, on the sale or exchange of bonds; administrative expenses; such other expenses as may be necessary or incidental to the acquisition, construction or reconstruction of any project or to the financing thereof, or the development of any lands within the district; and reimbursement of any public or private body, person, firm or corporation for any moneys, advanced in connection with any of the foregoing items of cost.

Any obligation or expense incurred prior to the issuance of bonds in connection with the acquisition, construction or reconstruction of any project or improvements thereon, or in connection with any other development of land that the board of supervisors of the district shall determine to be necessary or desirable in carrying out the purposes of this article may be treated as a part of such cost.

*District* means the Sun 'N Lake of Sebring Improvement District.

\*State law reference Power of county to establish service and benefit districts, F.S. § 125.01 (1)(q).

*Landowner* means the owner of a freehold estate as appears by the deed record, including a trustee,

a private corporation, and an owner of a condominium unit; it does not include a reversioner, remainderman, or mortgagee. For purposes of this definition, "landowner" shall include the Sun 'N Lake of Sebring Improvement District for lots held in the name of the district based upon, among other things, certificates of title issue pursuant to foreclosure proceedings for nonpayment of district assessments, fees, rates, rentals and other charges.

*Project* means any development, improvement, property, utility, facility, works, street, road, sidewalk, bridge, enterprise, service or convenience now existing or hereafter undertaken or established, that under the provisions of this article, the district is authorized to construct, acquire, undertake or furnish for its own use or for the use of any other person, firm or corporation, owning, leasing or otherwise using the same, for any profit or non-profit purpose or activity, and shall include, without limitation, such repairs, replacements, additions, extensions and betterments of and to any project as may be deemed necessary or desirable by the board of supervisors to place or to maintain such project in proper condition for the safe, efficient and economic operation thereof.

*Sewer system* means any plant, system, facility or property and additions, extensions and improvements thereto at any future time constructed or acquired as part thereof, useful or necessary or having the present capacity for future use in connection with the collection, treatment, purification or disposal of sewage, including without limitation industrial wastes resulting from any processes of industry, manufacture, trade or business or from the development of any natural resources; and, without limiting the generality of the foregoing, shall include treatment plants, pumping stations, lift stations, valves, force mains, intercepting sewers, laterals, pressure lines, mains and all necessary appurtenances and equipment, all sewer mains, laterals and other devices for the reception and collection of sewage from premises connected therewith, and all real and personal property and any interest therein, rights, easements and franchises of any nature whatsoever relating to any such system and necessary or convenient for the operation thereof.

*Water and flood control facilities* means any works, structures or facilities for the conservation, control, development, utilization and disposal of water, and any purposes appurtenant, necessary or incidental thereto, and includes all real and personal property and any interest therein, rights, easements and franchises of any nature relating to any such water and flood control facilities or necessary or convenient for the acquisition, construction, reconstruction, operation or maintenance thereof.

*Water system* means any plant, system, facility or property and additions, extensions and improvements thereto at any future time constructed or acquired as part thereof, useful or necessary or having the present capacity for future use in connection with the development of sources, treatment, or purification and distribution of water for domestic or industrial use and, without limiting the generality of the foregoing, includes dams, reservoirs, storage tanks, mains, lines, valves, pumping stations, laterals, and pipes for the purpose of carrying water to the premises connected with such system, and all real and personal property and any interests therein, rights, easements and franchises of any nature whatsoever relating to any such system and necessary or convenient for the operation thereof.

References in this article to the territorial or corporate limits of the district mean such limits or boundaries as the same may from time to time be expanded, contracted or otherwise revised by law or in any proceedings taken under this article and any actions that may be taken by or on behalf of the district under this article within the limits or boundaries of the district may be taken within such limits or boundaries as expanded, contracted or otherwise revised.

(Ord. No. 74-4, § 2; Ord. No. 83-11, § 2, 10-18-83; Ord. No. 93-19, § 1)

Cross reference-Rules of construction and definitions generally, § 1-2.

**Sec. 9-82. Creation of district; boundaries defined.**

A special district to be known and designated as the Sun 'N Lake of Sebring Improvement District is hereby created and established as a public body corporate in Highlands County, Florida. The Sun 'N Lake of Sebring Improvement District shall include within its territorial boundaries all of the lands within the following described boundaries:

Description of a tract of land in Township 34S, Range 28E, Highlands County, Florida, being in Sections 4, 5, 6, 7, 8, 9, 16, 17 and 18, together with that portion of Sections 3, 10 and 15, lying westerly of the west right-of-way line of U.S. Highway 27, less the NW¼ of the SE ¼ of said Section 4; less also that portion of said Section 15 platted as Fairmont Mobile Estates as recorded in Plat Book 9, Page 12 of the Public Records of Highlands County, Florida, more particularly described as follows: Commence at the northwest corner of Section 6, Township 34S, Range 28E, for a point of beginning and run thence S 89°55'21.2" E, along the north boundary of said Section 6, 5,295.52'; thence N 89°57'27.4" E, along the north boundary of said Section 5, 5,302.54' thence N 89°50'49.4" E, along the north line of said Section 4, 5,296.38'; thence S 89°45'59" E, along the north line of said Section 3, 940.91' to a point on the westerly right-of-way line of U.S. Highway 27; thence along said westerly right-of-way line, S 18°02'00" E, 14,202.74' to the northeast corner of said Fairmont Mobile Estates; thence along the northerly line of said Fairmont Mobile Estates, S 58°32'45" W, 1,619.91'; thence continue along the westerly boundary of said Fairmont Mobile Estates, S 00°11'45" W, 1,867.10' to a point on the south boundary of said Section 15; thence N 89°57'15" W, 3,941.80'; thence continue N 89°57'15" W, 15,935.76' to the southwest corner of said Section 18; thence N 00°02'53" W, along the west boundary of said Section 18, 5,355.12'; thence N 00°23'31.4" E, along the west boundary of said Section 7, 5,256.45'; thence N 00°01'24.7" E along the west boundary of said Section 6, 5,583.02' to the point of beginning. Less the following: Commence at the northwest corner of said Section 4 and run thence along the north line of said Section 4, 2,648.19'; thence S 00°00'17" E, 2,715.14' to the center of said Section 4 for a point of beginning, run thence N 89°35'05.6" E, 1,324.64'; thence S 00°00'59" E, 1,354.54'; thence S 89°27'14" W, 1,324.94'; thence N 00°00'17" W, 1,357.57' to the point of beginning. Containing 7,109.40 acres more or less.

AND

The NW ¼ of the SE ¼ of Section 4, Township 34 South, Range 28 East, Highlands County, Florida.

W.O. 1683-S.

(Ord. No. 74-4, § 1; Ord. No. 83-11, § 1)

#### **Sec. 9-83. Effect of failure to hold elections.**

Whenever any election shall be authorized or required by this article to be held by the landowners at any particular or stated time or day, and if for any reason such election is not held at such time or on such day, then in such event the power or duty to hold such election shall not cease or lapse, but such election shall be held thereafter when practicable, and in accordance with the procedures provided by this article.

(Ord. No. 74-4, § 3(10))

#### **Sec. 9-84. Landowners' meetings.**

(a) *Notice.* The board of supervisors shall provide for the giving of notice of all meetings of

landowners by publication once a week for two (2) consecutive weeks prior to such meeting in a newspaper or newspapers published or of general circulation in the county.

(b) *Place; time; purpose.* Meetings of landowners shall be held in a public place in the county, and the place, date and hour of holding such meeting and the purpose thereof shall be stated in the notice.

(c) *Quorum.* Landowners representing a majority of the number of acres in the district, present in person or by proxy, shall constitute a quorum at any meeting of the landowners.

(d) *Special meetings.* The board of supervisors shall have the power to call special meetings of the landowners at any time to receive reports of the board of supervisors or for such other purpose as the board of supervisors may determine. A special meeting of the landowners may also be called at any time upon notice as provided hereinabove at the written request of the owners of not less than twenty-five (25) per cent in acreage of the land within the district for the purpose of:

- (1) Filling any vacancy on the board of supervisors remaining unfilled for more than thirty (30) days after such vacancy occurs;
- (2) Recalling any supervisor theretofore elected or designated and filling such vacancy for the unexpired term; or
- (3) Taking any other action by the landowners of the district.

Such special meeting shall be called by any court of competent jurisdiction in the event that the board of supervisors fails to do so upon request as provided in the preceding sentence. Except as otherwise provided in this article with respect to the election of supervisors, action taken at a meeting of the landowners shall be by the affirmative vote of the owners of at least a majority in acreage of the land within the district represented at such meeting.

(e) *Adjournment upon lack of quorum.* If no quorum is present or represented at a meeting of the landowners at the time and place the same is called to be held, the landowners present and represented, although less than a quorum, may adjourn to another time or day, and at such or any subsequent adjourned meeting may, if a quorum is then present or represented, take any action that the landowners could have taken at the meeting or meetings so adjourned for lack of a quorum.

(f) *Representatives of landowners.* At any meeting of the landowners, guardians may represent their wards; executors and administrators may represent the estate of deceased persons; trustees may represent lands held by them in trust; and private corporations may be represented by their duly authorized proxy. All landowners, including guardians, executors, administrators, trustees and corporations, may be represented and vote by proxy.

(g) *Written consent of landowners in lieu of meeting.* Any action required or that may be taken at a meeting of the landowners may be taken, without a meeting or notice of meeting being given, upon the written consent of all of the landowners. (Ord. No. 74-4, § 4)

#### **Sec. 9-85. Treasurer; depositories; fiscal agent.**

(a) The board of supervisors shall designate a person who is a resident of the state, or a bank or trust company organized under the laws of the state, as treasurer of the district, who shall have charge of the funds



of the district. Such funds shall be disbursed only upon the order of or pursuant to the resolution of the board of supervisors by warrant or check signed by the treasurer, or by such other person as may be authorized by the board of supervisors.

(b) The board of supervisors may give the treasurer such other or additional powers and duties as the board may deem appropriate, and fix his compensation. The board of supervisors may require the treasurer to give a bond in such amount, on such terms and with such sureties as may be deemed satisfactory to the board to secure the performance by the treasurer of his powers and duties. The board of supervisors shall audit or have audited the books of the treasurer at least once a year.

(c) The board of supervisors is authorized to select as depositories in which the funds of the board and of the district shall be deposited any banking corporation organized under the laws of the state or under the national banking act, doing business in the state, upon such terms and conditions as to the payment of interest by such depository upon the funds so deposited as the board may deem just and reasonable.

(d) The state comptroller may from time to time, adopt, revise and rescind rules and regulations prescribing the qualifications of depositories of funds of the district and establishing requirements for security to be given by depositories with respect to such funds. In the absence of any such rules and regulations issued by the state comptroller, the board of supervisors may prescribe the qualifications of depositories and the requirements for security to be given by depositories.

(e) The board of supervisors may employ a fiscal agent, who shall be either a resident of the state or a corporation organized under the laws of this or any other state and authorized by such laws to act as such fiscal agent for municipal corporations in the state and who shall assist in the keeping of tax books, the collection of taxes and the remitting of funds to pay maturing bonds and coupons, and perform such other or additional services and duties as fiscal agent and receive such compensation as the board of supervisors may determine. (Ord. No. 74-4, § 6)

#### **Sec. 9-86. Powers of district —Generally.**

The district shall have the following powers:

- (1) *Legal proceedings.* To sue and be sued by its name in any court of law or in equity.
- (2) *Corporate seal.* To adopt and use a corporate seal and to alter the same at pleasure.
- (3) *Ownership and disposition of property.* To acquire property, real, personal or mixed, within or without its territorial limits, in fee simple or any lesser interest or estate, by purchase, gift, devise or lease, on such terms and conditions as the board of supervisors may deem necessary or desirable, all provided that the use or ownership of such property is necessary in the furtherance of a designated lawful purpose authorized under the provisions of this article and amendments thereto, and further provided that if the district acquires property from the Highlands County Title and Guaranty Land Company the district may acquire such property at the cost of the property to the company, and provided further that property may be acquired without the territorial limits of the district only if it is to further the purposes of providing water, sewer and sanitation for the district; to acquire mineral rights and leases; to acquire title to submerged lands and riparian rights and easements or rights-of-way with or without restrictions within or without the limits of the district; to accept the dedication of streets and other rights-of-way on such terms and

conditions as the board of supervisors may approve; to make purchase money mortgages and deed trusts and other forms of encumbrance on any property acquired by the district and to purchase property subject to purchase money mortgages, or other encumbrances; and to mortgage, hold, manage, control, convey, lease, sell, grant or otherwise dispose of the same. and of any of the assets and properties of the district, with or without consideration.

- (4) *Lease of facilities.* Whenever deemed necessary or desirable by the board of supervisors, to lease as lessor or lessee to or from any person, firm, corporation, association or body, public or private, any projects of the type that the district is authorized to undertake and facilities or property of any nature for the use of the district and to carry out any of the purposes of the district, subject to the limitations of section 9-152.
- (5) *Clearing; reclamation; irrigation.* To adopt a plan of reclamation for the purpose of clearing, excavating, draining and irrigating lands within the district, and to own, acquire, construct, reconstruct, equip, operate, maintain, extend and improve systems and works for such purposes.
- (6) *Water and sewer systems.* To own, acquire, construct, reconstruct, equip, operate, maintain, extend and improve water systems and sewer systems or combined water and sewer systems; to regulate the use of sewers and the supply of water within the district and to prohibit or regulate the use and maintenance of out-houses, privies, septic tanks or other sanitary structures or appliances within the district; to prescribe methods of pretreatment of wastes not amenable to treatment with domestic sewage before accepting such wastes for treatment and to refuse to accept such wastes when not sufficiently pretreated as may be prescribed, and to prescribe penalties for the refusal of any person or corporation to so pretreat such wastes; to sell or otherwise dispose of the effluent, sludge or other by-products as a result of sewage treatment; and to construct and operate connecting, intercepting or outlet sewers and sewer mains and pipes and water mains, conduits or pipelines in, along or under any streets, alleys, highways or other public places or ways within or without the district, when deemed necessary or desirable by the board of supervisors in accomplishing the purposes of this article.
- (7) *Issuance of bonds.* To issue general obligation bonds, revenue bonds, assessment bonds or any other bonds or obligations authorized by the provisions of this article, or any other law, or any combination of the foregoing, to pay all or part of the cost of the acquisition, construction, reconstruction, extension, repair, improvement, maintenance or operation of any project or combination of projects, to provide for any facility, service or other activity of the district and to provide for the retirement or refunding of any bonds or obligations of the district, or for any combination of the foregoing purposes.
- (8) *Industrial aid.* To exercise all the powers conferred upon local agencies by chapter 159, part II, Florida Statutes, to finance the development within the district of industrial or manufacturing projects.
- (9) *Storage sites; office building.* To acquire and maintain appropriate sites for storage and maintenance of the equipment of the district; to acquire and maintain and construct a suitable building to house the office and records of the district.
- (10) *Recreation facilities.* To own, acquire, construct, operate and maintain parks, playgrounds,

picnic grounds, camping facilities, water recreation facilities golfing and tennis facilities and other recreational facilities of all kinds within the district.

- (11) *Fire protection.* To provide protection against fire and for such purposes to acquire, construct, own, operate and maintain hydrants, automotive vehicles and fire extinguishing equipment, station facilities and such other equipment and facilities as may be necessary or desirable in order to give adequate fire protection.
- (12) *Other powers.* In addition to the powers specifically provided in this article, the district shall have the power to exercise through its board of supervisors all powers necessary, convenient or proper to carry out the purposes of this article.
- (13) To provide a program of mosquito control within the district. (Ord. No. 74-4, § 8; Ord. No. 77-4, § 3(A), (B); Ord. No. 83-11, § 5)

**Sec. 9-87. Same – Authority with respect to roads, streets and bridges.**

The district shall have the right and power to construct, reconstruct, pave, improve and maintain highways, streets, roads, alleys, sidewalks, storm drains, bridges and public thoroughfares of all kinds and descriptions (hereinafter collectively and severally referred to as "public roads") and connections to and extensions of any and all existing public roads within the district, deemed necessary or convenient by the board of supervisors to provide access to and efficient development of the territory within the district and as may from time to time be deemed appropriate by the board of supervisors adequately to service the district and its residential, park, recreational, commercial and industrial areas. (Ord. No. 74-4, § 9)

**Sec. 9-88. Same -Mandatory use of district water and sewer facilities and services.**

The district may require all lands, buildings and premises, and all persons, firms and corporations, within the district or within any zone or area within such district created for such purpose, to use the water and sewer systems of the district. Subject to such exceptions as may be provided by the resolutions, rules or by-laws of the board of supervisors, and subject to the terms and provisions of any resolution authorizing any bonds and agreements with bondholders, no water and sewer systems shall be constructed or operated within the district unless the board of supervisors gives its consent thereto and approves the plans and specifications therefor. The violation of the foregoing user requirements shall be and constitute a misdemeanor and any person convicted in a court of competent jurisdiction of violating the same shall be subject to the penalties provided by section 775.07, Florida Statutes, and amendments thereto. (Ord. No. 74-4, § 11)

**Sec. 9-89. Same -Maintenance of projects across rights-of-way.**

The district shall have the power to construct and operate its projects in, along or under any streets, alleys, highways or other public places or ways. (Ord. No. 74-4, § 12)

**Sec. 9-90. Same - Establishment of fees, rates, rentals and charges.**

(a) The district shall have the power to prescribe, fix, establish and collect rates, fees, rentals or other charges (hereinafter sometimes referred to as "revenues"), and to revise the same from time to time, for the facilities and services furnished or to be furnished by the district, and to provide for reasonable penalties against any user or property for any such rates, fees, rentals or other charges that are delinquent.

(b) No such rates, fees, rentals or other charges for any of the facilities or services of the district shall be fixed until after a public hearing at which all the users of the proposed facility or services or owners, tenants or occupants served or to be served thereby and all other interested persons shall have an opportunity to be heard concerning the proposed rates, fees, rentals or other charges. Notice of such public hearing setting forth the proposed schedule or schedules of rates, fees, rentals and other charges shall have been published in a newspaper or newspapers published or of general circulation in the county at least once at least ten (10) days prior to such public hearing, which may be adjourned from time to time.

(c) After such hearing such schedule or schedules, either as initially proposed, or as modified or amended, may be finally adopted. A copy of the schedule or schedules of such rates, fees, rentals or office charges as finally adopted shall be kept on file in an office designated by the board of supervisors and shall be open at all reasonable times to public inspection.

(d) The rates, fees, rentals or charges so fixed for any class of users or property served shall be extended to cover any additional users or properties thereafter served which shall fall in the same class, without the necessity of any notice or hearing. Any change or revision of rates, fees, rentals or charges may be made in the same manner as the same were originally established, as hereinabove provided, except that if such changes or revisions are made substantially pro rata as to all classes of the type of service involved no notice or hearing shall be required.

(e) Such rates, fees, rentals and charges shall be just and equitable and uniform for users of the same class, and where appropriate may be based or computed either upon the amount of service furnished or upon the number or average number of persons residing or working or otherwise occupying the premises served, or upon any other factor affecting the use of the facilities furnished, or upon any combination of the foregoing factors, as may be determine by the board of supervisors on an equitable basis.

(f) The rates, fees, rentals or other charges prescribed shall be such as will produce revenues, together with any other assessments, taxes, revenues or funds available or pledged for such purpose, at least sufficient to provide for the items hereinafter listed, but not necessarily in the order stated:

- (1) To provide for all expenses of operation and maintenance of such facility or service including reserves for such purpose,
- (2) To pay when due all bonds and interest thereon for the payment of which such revenues are, or shall have been, pledged or encumbered, including reserves for such purpose, and
- (3) To provide for any other funds which may be required under the resolution or resolutions of the district authorizing the issuance of bonds pursuant to this article.

(g) The board of supervisors shall have the power to enter into contracts for the use of the services and facilities furnished or to be furnished by the district, with the landowners and others within or without the district, for such consideration and on such other terms and conditions as the board of supervisors may approve. Such contracts shall not be subject to the provisions and limitations of this section, but shall not be entered into for a period longer than forty (40) years from the effective date thereof and shall be fair and reasonable in relation to the rates, fees, rentals or other charges to be paid by other users of the facilities and services concerned. No hearing or notice thereof shall be required prior to the authorization or execution by the board of supervisors of any such contract, and the same shall not be subject to revision except in accordance with their terms. Such contracts and any revenues or service charges received or to be received by



the district thereunder may be pledged as security for any of the bonds of the district. (Ord. No. 74-4, § 13)

**Sec. 9-91. Same —Discontinuance of service.**

In the event that the rates, fees, rentals or other charges for any services and facilities of the district are not paid when due, the board of supervisors shall have the power to discontinue and shut off the same until such rates, fees, rentals or other charges, including interest, penalties and charges for the shutting off and discontinuance and the restoration of such services and facilities, are fully paid, and for such purposes may enter on any lands and premises of any person, firm or corporation. Such delinquent rates, fees, rentals or other charges, together with interest, penalties and charges for the shutting off and discontinuance and the restoration of such services and facilities, and reasonable attorneys' fees and other expenses, may be recovered by the district by suit in any court of competent jurisdiction. The district may also enforce payment of such delinquent rates, fees, rentals or other charges by any other lawful method of enforcement. (Ord. No. 74-4, § 14)

**Sec. 9-92. Same —Agreements with private parties concerning the furnishing of facilities and services.**

The district shall have the power to enter into agreements with any person, firm or corporation for the furnishing within the district by such person, firm or corporation of any facilities and services of the type provided for herein, for or on behalf of the district to persons, firms, corporations and other public or private bodies and agencies to whom the district is empowered hereunder to furnish facilities and services, and the district may by agreement join with any publicly or privately owned utility plant or system in furnishing any of the facilities or services of the district. (Ord. No. 74-4, § 15)

**Sec. 9-93. Tax exemption.**

As the exercise of the powers conferred by this article to effect the purposes of this article constitutes the performance of essential public functions, and as the projects of the district will constitute public property used for public purposes, all assets and properties of the district, and all bonds issued hereunder and interest paid thereon, and all fees, charges and other revenues derived by the district from the projects provided for hereby shall be exempt from all taxes by the state or by any political subdivision, agency or instrumentality thereof; provided, however, that nothing herein shall be deemed to exempt from taxation any property, project, facility, business activity or enterprise that cannot validly be undertaken as a public function by special taxing districts or other public bodies under the laws and constitution of the state. (Ord. No. 74-4, § 38)

**Sec. 9-94. Action taken on consent of landowners.**

Any action required under this article to be taken on notice to the landowners of the district and on public hearing for the purpose of receiving and passing on objections by landowners may be taken without such notice or hearing upon the written consent of all of the landowners affected by such action. (Ord. No. 74-4, § 39)

**Sec. 9-95. Protection of rights of certain prior grantees.**

Prior to the creation of this district, some of the property within the planned community comprising the district had been previously sold by Highlands County Title and Guaranty Land Company by agreement

for deed. No property had been conveyed by deed record. As to these purchasers, Highlands County Title and Guaranty Land Company was obligated to provide paved roads and drainage to comply with county specifications. It is the intent of the board of county commissioners to protect the interests of the holders of the contracts for deed which were entered into prior to notification of this improvement district. Therefore:

- (1) After the creation of the district, a certified list of the purchasers and a description of the property purchased shall be included among the records of the board of supervisors.
- (2) These purchasers shall not be required to pay the costs of paved roads and drainage as long as they continue to hold their agreement for deed in good standing or thereafter become a landowner for that parcel of property that they originally agreed to purchase and accept title for.
- (3) All charges against the property for paved roads and drainage shall be paid for by Highlands County Title and Guaranty Land Company. (Ord. No. 74-4, § 45)

#### **Sec. 9-96. Fiscal year.**

The board of supervisors has the power to establish and from time to time redetermine the fiscal year of the district. Unless the board of supervisors otherwise provides, the district shall be on a calendar fiscal year. (Ord. No. 74-4, § 46)

#### **Sec. 9-97. Zoning; building codes; safety regulations; platting and subdivisions.**

Anything herein to the contrary notwithstanding, the respective officials of the county or of any agency or authority of the county having powers and duties pertaining to zoning, building and construction codes, planning as to land use and the subdivision of land, regulation of building safety, regulation of plumbing and electrical installations, sanitary codes, the approval and vacating of plats and subdivisions and the regulation of subdivisions shall have full power and jurisdiction within the area comprising the district with respect to all powers, duties, authority and responsibilities granted such agencies by law. (Ord. No. 74-4, § 47)

#### **Sec. 9-98. Competitive bidding by the district.**

(a) In other sections of this article, provisions are made whereby the district, by and through its board of supervisors, may construct roads, public utilities, drainage, public lighting, recreational facilities and other major improvements. Notwithstanding such previous sections, any such improvements must first be advertised for two (2) consecutive weeks in a paper of general circulation within the county and competitive bids received as submitted.

(b) In no instance, however, shall the district, after once having received the competitive bids, be bound by any of the terms or conditions of any of the bids as submitted. If, in the judgment of the district, after having received the bids as submitted, it should appear to be to the best interest of the district to negotiate at public or private negotiation for the purposes of constructing, or causing to be constructed, the anticipated project or projects, then the board of supervisors has the right to discard the bid, proceed with negotiation and construct, or cause to be constructed, the project in question.

(c) Competitive bidding shall not be required for purchases or improvements costing less than ten thousand dollars (\$10,000.00). (Ord. No. 74-4, § 48; Ord. No. 83-11, § 7; Ord. No. 92-8, § 1)

#### **Sec. 9-99. Article to constitute full authority for establishment of projects and finances.**

This article is full authority for the establishment of district projects and district finances. The board of supervisors shall have exclusive jurisdiction and control over all of the projects of the district and over the budget and finances of the district, including without limitation, expenditures and appropriations, except to the extent otherwise provided herein and except to the extent that the board of supervisors may by agreement with any person, firm, corporation or other public or private body authorize the same to exercise jurisdiction or control over any of the projects of the district.

(Ord. No. 74-4, § 16)

**Sec. 9-100. Administrative costs.**

The board of county commissioners and/or the property appraiser of the county and tax collector of the county, shall have the right to levy against the funds collected in the district in sufficient sums to pay the cost of administration.

(Ord. No. 77-4, § 3(G))

**Sec. 9-101. Liberal construction.**

The provisions of this article shall be liberally construed to effect its purposes and shall be deemed cumulative, supplemental and alternative authority for the exercise of the powers provided herein.

(Ord. No. 74-4, § 50)

**Sees. 9-102 – 9-105. Reserved.**

**DIVISION 2. BOARD OF SUPERVISORS**

**Sec. 9-106. Designated governing body; composition; election at annual meetings.**

(a) The board of supervisors shall be the governing body of the district and shall, subject to the provisions hereof, exercise the powers granted to the district under this article.

(b) The board of supervisors shall consist of five (5) members, who shall hold office for the term specified in this section, or until their successors shall be chosen and shall qualify. Upon expiration of the initial terms, the term of office for each appointment shall be for four (4) years. Each member of the board of supervisors shall be a resident of the state and shall be an owner of land within the district.

(c) The annual meeting of the landowners of the district shall be held on the fourth Friday in January of each year, at such time within normal business hours as the board of supervisors shall determine. If for any reason any annual meeting cannot be held as in this subsection provided, then such meeting shall be held as soon as practicable after the day herein specified. Members of the board of supervisors shall be elected by majority vote of the landowners of the district as the terms of such members shall expire.

(d) Each landowner shall be entitled to cast one (1) vote for each acre, or fraction thereof, of land not subdivided into lots and one (1) vote for each subdivided lot, or fraction thereof, owned by him and located in the district for each person to be elected. A landowner may vote in person or by proxy in writing. A landowner shall not be entitled to cast a vote for any land and/or subdivided lots owned by said landowner for which any assessment, fee, rate, rental or other charge imposed by the district is delinquent at the time of the election.

(Ord. No. 74-4, § 3(1)-(4); Ord. No. 83-11, §§ 3, 4; Ord. No. 93-19, § 2)

**Sec. 9-107. Filling of vacancies.**

(a) All supervisors shall hold office for the terms for which they are elected or appointed and until their successors shall be chosen and qualify. In case of a vacancy in the office of any supervisor, the remaining supervisor or supervisors (even though less than a quorum) may fill such vacancy until the sooner occurrence of:

- (4) The next annual meeting of the landowners, when a successor to such appointee shall be elected by the landowners for the unexpired term, or
- (5) The election by the landowners of a successor to such appointee for the unexpired term, at a special meeting of the landowners called for such purpose at any time upon written request of the landowners as provided in section 9-84.

(b) In the event any vacancy remains unfilled for more than thirty (30) days after such vacancy occurs, it may be filled by vote of the landowners at a meeting of landowners called for such purpose, and the person so elected shall replace any person who may have been elected by the remaining supervisor or supervisors after the landowners have made a written request for such an election as provided in section 9-84. (Ord. No. 74-4, § 3 (5) )

**Sec. 9-108. Organization; seal.**

As soon as practicable after each election, the board of supervisors of the district shall organize by choosing one of their number president of the board of supervisors and by electing a secretary, who need not be a member of the board. The board of supervisors shall adopt a seal which shall be the seal of the district. (Ord. No. 74-4, § 3 (6) )

**Sec. 9-109. Quorum.**

A majority of the members of the board of supervisors shall constitute a quorum. (Ord. No. 74-4, § 3(7))

**Sec. 9-110. Annual report.**

At each annual meeting of the landowners of the district the board of supervisors shall report all work undertaken or completed during the preceding year and the status of the finances of the district. (Ord. No. 74-4, § 3 (8) )

**Sec. 9-111. Records.**

The board of supervisors shall keep a permanent record book entitled "Record of Governing Board of Sun 'n Lake of Sebring Improvement District," in which shall be recorded minutes of all meetings, resolutions, proceedings, certificates, bonds given by all employees, and any all corporate acts, which book shall at reasonable times be opened to public inspection. Such record book shall be kept at an office or other regular place of business maintained by the board of supervisors in the county. (Ord. No. 74-4, § 3 (9) )

**Sec. 9-112. Compensation of members.**

Each supervisor shall be entitled to receive for his services a per diem of twenty-five dollars (\$25.00) for each day actually engaged in work pertaining to the district, but not in excess in any one month of one



hundred dollars (\$100.00). In addition, each supervisor shall receive reasonable traveling expenses for attending the place of meeting from his residence. Unless the board of supervisors by resolution otherwise provides, such traveling expenses shall not be in excess of the amounts provided by law for state and county officials. (Ord. No. 74-4, § 5)

**Sec. 9-113. Interest of members in contracts.**

No member of the board of supervisors shall be deemed to have an interest in any contract of the district with any public or private corporation by reason of the fact that such supervisor is a director, officer, employee or non-controlling stockholder of such a corporation. Contracts of the district with any such public or private corporation shall not be invalid or unenforceable by reason of such interest, and no supervisor shall be disqualified from voting or otherwise acting upon such contract as a member of the board of supervisors by reason of such interest, provided that each member of the board of supervisors shall have submitted to the board of supervisors a statement of his interest in such corporation prior to the approval or authorization of the contract by the district. Such statement shall be maintained as part of the permanent record book of the district for as long as such contract continues in effect and for not less than one year thereafter. ((Ord. No. 74-4, § 41)

**Sec. 9-114. Powers and duties - Generally.**

Except as otherwise provided in this article, all of the powers and duties of the district shall be exercised by and through the board of supervisors. Without limiting the generality of the foregoing, the board shall have the power and authority to:

- (1) Employ engineers, architects, contractors, consultants, attorneys, auditors, agents, employees and representatives, as the board of supervisors may from time to time determine, on such terms and conditions as the board of supervisors may approve, and fix their compensation and duties.
- (2) Adopt by-laws, rules, resolutions and orders prescribing the powers, duties and functions of the officers of the district, the conduct of the business of the district, the maintenance of records, and the form of certificates evidencing tax liens and all other documents and records of the district. The board may adopt administrative rules and regulations with respect to any of the projects of the district, on such notice and public hearing, if any, as the board may determine.
- (3) Maintain an office at such place or places as it may designate.
- (4) Enter or direct the entry upon any lands, premises, waters or other property subject to the requirements of due process as to privately owned property.
- (5) Execute all contracts and other documents, adopt all proceedings and perform all acts determined by the board of supervisors to be necessary or desirable to carry out the purposes of this article. The board may authorize one or more members of the board to execute contracts and other documents on behalf of the board or the district.
- (6) Establish and create such departments, boards or other agencies as, from time to time, the board of supervisors may deem necessary or desirable in the performance of any acts or other things necessary to the exercise of the powers provided in this article, and to delegate to such departments, boards or other agencies such administrative duties and other powers as the board of supervisors may deem necessary or desirable. The board of supervisors may appoint

a person to act as general manager of the district, having such official title, functions, duties and powers as the board may prescribe.

- (7) Examine, and authorize any officer or agent of the district to examine, the county tax rolls with respect to the assessed valuation of the real and personal property within the district. (Ord. No. 74-4, § 7)

**Sec. 9-115. Same - Phase development.**

The board of supervisors of the district shall have the power and is hereby authorized in its discretion to accomplish any project authorized by this article, by designated areas or parts of the district, to be called "phases." The board of supervisors shall have the power to fix, determine and alter the location, area and boundaries of lands to be included in each and all such phases, the order of development thereof, and the method of carrying on the work in each phase. It shall not be necessary that an area or areas designated as a phase or as phases for the purpose of the development of one type of project authorized by this article must also be an area or areas for the phase development of any other project authorized by this article. If the board of supervisors shall determine that it is advisable to develop the work of a project in the district by phases, as authorized by this section, the board shall, by resolution, declare its purpose to conduct such work accordingly, and shall fix the number, location and boundaries of and description of lands within the phase in which it proposes to proceed and give such phase an appropriate number or name. Unless the board of supervisors by resolution otherwise provides, all assessments, levies, taxes, bonds and other obligations made, levied, assessed or issued for or in respect to any such phase or phases shall be a lien and charge solely and only upon the lands in such phase or phases, respectively, for the benefit of which the same shall be levied, made or issued, and not upon the remaining phases or lands in the district. (Ord. No. 74-4, § 10)

**Sec. 9-116. Same - Construction of projects.**

The board of county commissioners hereby finds and declares that in order to accomplish the purposes of this article, it is essential that the board of supervisors have discretion and authority with respect to the manner in which the construction of the projects of the district, including, but not by way of limitation, projects financed by district bonds, taxes or assessments, shall be undertaken. The board of supervisors shall have power and authority to acquire, construct, reconstruct, extend, repair, improve, maintain and operate any of the projects of the district, and to that end to employ contractors, to purchase machinery, to employ men to operate the same, and directly to have charge of and construct the projects of the district in such manner as the board of supervisors may determine. (Ord. No. 74-4, § 40)

**Sec. 9-117. Same Investment of funds.**

The board of supervisors may in its discretion invest funds of the district in:

- (1) Direct obligations of or obligations guaranteed by the United States of America or for the payment of the principal and interest of which the faith and credit of the United States is pledged;
- (2) Bonds or notes issued by any of the following federal agencies: Bank for Cooperatives; Federal Intermediate Credit Banks; Federal Home Loan Bank System; Federal Land Banks; or the Federal National Mortgage Association (including debentures or participating certificates issued by such association);
- (3) Public housing bonds issued by public housing authorities and secured by a pledge of annual contributions under an annual contribution contract or contracts with the United States of

America;

- (4) Bonds or other interest-bearing obligations of any county, district, city or town located in the state for which the full faith and credit of such political subdivision is pledged; or
- (5) Any investment authorized for insurers by sections 625.0105 through 625.0115, Florida Statutes, inclusive, and amendments thereto. (Ord. No. 74-4, § 42)

**Secs. 9-118 - 9-125. Reserved.**

### **DIVISION 3. BONDS, TAX CERTIFICATES AND NOTES**

#### **Sec. 9-126. General obligation bonds.**

(a) The district shall have the power from time to time to issue general obligation bonds in an aggregate principal amount of bonds outstanding at any one time not in excess of thirty-five (35) per cent of the assessed value of the taxable property within the district as shown on the pertinent tax records at the time of the authorization of the general obligation bonds for which the full faith and credit of the district is pledged. Except for refunding bonds, no general obligation bonds shall be issued unless the issuance thereof shall have been approved at an election of freeholders held in accordance with the requirements for such election as prescribed by the constitution of the state. Such elections shall be called to be held in the district by the board of county commissioners upon the request of the board of the district. The expenses of calling and holding such referendum elections shall be borne by the district and the district shall reimburse the county for any expenses incurred in calling or holding such elections. In the alternative, at the option of the board, the board may make such other provision for the registration of such qualified electors who are freeholders and the calling and holding of such elections as the board may from time to time deem appropriate.

(b) The district may pledge its full faith and credit for the payment of the principal and interest on such general obligation bonds, and for any reserve or other funds provided therefor, and may unconditionally and irrevocably pledge itself to levy ad valorem taxes on all taxable property in the district, to the extent necessary for the payment thereof, without limitations as to rate or amount.

(c) If the board shall determine to issue general obligation bonds for more than one different purpose, the approval of the issuance of the bonds for each and all such purposes may be submitted to the freeholders on one and the same ballot. The failure of the freeholders to approve the issuance of bonds for any one or more purposes shall not defeat the approval of the bonds for any purpose which shall be approved by the freeholders. (Ord. No. 74-4, § 24)

#### **Sec. 9-127. Revenue bonds.**

(a) The district shall have the power to issue revenue bonds. Such revenue bonds may be secured by or payable from the gross or net pledge of the revenues to be derived from any project or combination of projects, from the rates, fees, rentals or other charges to be collected for the use of the services or facilities of any project or projects. Such bonds shall not constitute an indebtedness of the district, and the approval of the qualified electors shall not be required unless such bonds are additionally secured by the full faith and credit and taxing power of the district.

(b) Any two (2) or more projects may be combined and consolidated into a single project, and may thereafter be operated and maintained as a single project. The revenue bonds authorized herein may be

issued to finance any one or more such projects separately, or to finance two (2) or more such projects, regardless of whether or not such projects have been combined and consolidated into a single project. If the board of supervisors deems it advisable, the proceedings authorizing such revenue bonds may provide that the district may thereafter combine the projects then being financed or theretofore financed with other projects to be subsequently financed by the district, and that revenue bonds to be thereafter issued by the district shall be on parity with the revenue bonds then being issued, all on such terms, conditions and limitations as shall be provided, and may further provide that the revenues to be derived from the subsequent projects shall at the time of the issuance of such parity revenue bonds be also pledged to the holders of any revenue bonds theretofore issued to finance the revenue undertakings which are later combined with such subsequent project. The district may pledge for the security of the revenue bonds a fixed amount, without regard to any fixed proportion of the gross revenues of any project. (Ord. No. 74-4, § 25)

**Sec. 9-128. Issuance of additional bonds.**

If the proceeds of any bonds shall be less than the cost of completing the project in connection with which such bonds are issued, the board of supervisors may authorize the issuance of additional bonds, upon such terms and conditions as the board of supervisors may provide in the resolution authorizing the issuance thereof, but only in compliance with the resolution or other proceedings authorizing the issuance of the original bonds. (Ord. No. 74-4, § 26)

**Sec. 9-129. Refunding bonds.**

The district shall have the power to issue bonds to provide for the retirement or refunding of any bonds or obligations of the district that at the time of such issuance are or subsequently thereto become due and payable, or that at the time of issuance have been called or are or will be subject to call for redemption within ten (10) years thereafter, or the surrender of which can be procured from the holders thereof at prices satisfactory to the board of supervisors. Refunding bonds may be issued at any time when, in the judgment of the board of supervisors, such issuance will be advantageous to the district. No approval of the qualified electors residing in the district shall be required for the issuance of refunding bonds except in cases where such approval is required by the constitution of the state. The board of supervisors may by resolution confer upon the holders of such refunding bonds all rights, powers and remedies to which the holders would be entitled if they continued to be the owners and had possession of the bonds for the refinancing of which such refunding bonds are issued, including, but not limited to, the preservation of the lien of such bonds on the revenues of any project or on pledged funds, without extinguishment, impairment or diminution thereof. The provisions hereof pertaining to bonds of the district shall, unless the context otherwise requires, govern the issuance of refunding bonds, the form and other details thereof, the rights of the holders thereof, and the duties of the board of supervisors with respect to the same. (Ord. No. 74-4, § 27)

**Sec. 9-130. Pledging ad valorem taxes, assessments and other revenues and properties as additional security on bonds.**

The District may pledge as additional security for the payment of any of the bonds of the district its full faith and credit and ad valorem taxing power, and provide that such bonds shall be payable as to both principal and interest, and as to any reserve or other funds provided therefor, from ad valorem taxes levied on the taxable real and tangible personal property in the district, to the full extent that any revenues, taxes, assessments or other funds, or any combination thereof pledged therefor are insufficient for the full payment of the same, and, provided further, that no bonds shall be issued to the payment of which the full faith and credit and taxing power of the district is pledged unless approved at an election in the manner provided by law. The district by resolution of the board of supervisors may also pledge as additional security for any



bonds the revenues from any project of the district, assessments, and any other sources of revenues or funds, or any combination of the foregoing, and may pledge or mortgage any of the properties, rights, interests or other assets of the district, and such pledge shall not require the submission to or approval by the qualified electors of the district unless required by the constitution of the state. The board of supervisors may also provide with respect to any bonds of the district that such bonds shall be payable, in whole or in part, as to principal amount or interest, or both, out of rates, fees, rentals or other charges collected with respect to any of the projects of the district. (Ord. No. 74-4, § 28)

**Sec. 9-131. Lien of pledges.**

All pledges of revenues, taxes and assessments made pursuant to the provisions hereof shall be valid and binding from the time when such pledges are made. All such revenues, taxes and assessments so pledged and thereafter collected shall immediately be subject to the lien of such pledges without any physical delivery thereof or further action, and the lien of such pledges shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the district, irrespective of whether such parties have notice thereof. (Ord. No. 74-4, § 29)

**Sec. 9-132. Assessable improvements; levy and payment of special assessments; assessment bonds and certificates.**

(a) The district may provide for the construction or reconstruction of assessable improvements, for the levying of special assessments upon benefited property for the payment thereof and for the issuance of bonds payable from such as assessments, and the district may proceed under the provisions of chapter 170, Florida Statutes, as if the district were a municipality and the proposed project were one described in section 170.01 of such chapter, except as hereinafter provided otherwise.

(b) Special assessments against properties deemed to be benefited by a project shall be assessed upon such properties in proportion to the benefits, determined and prorated on a flat rate bases (providing an equal assessment upon each lot or parcel assessed) or on an area basis, or according to the front footage of the respective properties assessed or on such other basis as the board of supervisors may prescribe as being most equitable and fair under the circumstances.

(c) The board of supervisors may declare that any assessment may be made payable in not more than forty (40) equal yearly installments, with interest on the unpaid balance thereof at a rate not to exceed ten (10) per cent per year, or, if bonds are to be issued hereunder to finance the cost of such project, at a rate not to exceed one (1) per cent above the rate of interest at which such bonds shall be sold, from the date of the acceptance of the project, to which, if not paid when due, there shall be added the penalty prescribed by such chapter. The board of supervisors may declare that any assessments may be made payable in not more than forty (40) equal yearly installments of the combined assessment and aggregate interest thereon or in not more than forty (40) equal yearly installments, with interest on the unpaid balance thereof, as the board of supervisors may determine to be in the best interest of the district.

(d) Bonds payable from such assessments shall be executed with the manual or facsimile signatures of the president and the secretary of the board of supervisors; shall bear interest as provided in section 215.84, Florida Statutes (1982), or as the same shall be hereafter amended, payable annually or semiannually; shall mature at such time or times not exceeding forty (40) years; and shall be sold in such manner and at such price as the board of supervisors may determine to be for the interest of the district; but no such sale may be made at a price of less than ninety (90) per cent of the par value of the bonds or at a net interest cost greater than that, permitted under said section 215.84 or as amended.

(e) If all of the owners of the lots and parcels of property to be assessed shall consent in writing to the terms of any proposed assessment as stated in the resolution of the board of supervisors adopted pursuant to section 170.03, Florida Statutes, and as shown on the preliminary assessment roll prepared pursuant to section 170.06, Florida Statutes, then the district shall not be required to publish such resolution in the manner provided by section 170.05, Florida Statutes, or otherwise, nor shall any hearing be required to be held by the board of supervisors as provided in section 170.07, Florida Statutes. A final assessment roll may be established by resolution of the board of supervisors based upon such written consent of all of the owners of the lots and parcels to be assessed.

(f) The board of supervisors may authorize the issuance of bonds payable from assessments prior to the board's award of the contract for the construction of the improvements for which such assessments shall be levied and in an aggregate principal amount equal to the aggregate amount of such assessments, plus the amount of a debt service reserve for such bonds; and it shall not be necessary that such bonds shall bear any certificate that the amount of liens levied, the proceeds of which are pledged to the payment of said bonds, are equal to the amount of the bonds issued. No bond issued pursuant to authority granted by this ordinance shall be required to bear interest after maturity at any rate which shall be less than the rate of interest such bond shall be permitted by general law to bear prior to maturity.

(g) If the board of supervisors has, or shall have, levied assessments hereunder which are, or shall be, pledged to the payment of outstanding bonds of the district, any of the lands subject to the liens of such assessments may be replatted for the purpose of rerouting roads or dedicating land for drainage, recreational or other nonresidential use or for any other appropriate reason, and the district may levy assessments upon the resulting newly platted residential lots, with the written consent of all of the owners thereof, in amounts sufficient to provide for the debt service requirements of refunding bonds, hereby authorized, to be issued by the district to provide proceeds sufficient to prepay in full the original assessments upon such lands which are or shall be pledged to such outstanding bonds, to pay the costs of issuance of such refunding bonds and to provide a debt service reserve for such refunding bonds. (Ord. No. 74-7, § 30; Ord. No. 77-4, § 3(D); Ord. No. 83-11, § 6; Ord. No. 89-1, § 3B)

#### **Sec. 9-133. Trust agreements.**

In the discretion of the board of supervisors, any issue of bonds may be secured by a trust agreement by and between the district and a corporate trustee or trustees, which may be any trust company or bank having the powers of a trust company within or without the state. The resolution authorizing the issuance of the bonds or such trust agreement may pledge the revenues to be received from any projects of the district and may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as the board of supervisors may approve, including without limitation covenants setting forth the duties of the district in relation to the acquisition, construction, reconstruction, improvement, maintenance, repair, operation and insurance of any projects, the fixing and revising of the rates, fees, rentals and charges, and the custody, safeguarding and application of all moneys, and for the employment of counseling engineers in connection with such acquisition, construction, reconstruction, improvement, maintenance, repair or operation. It shall be lawful for any bank or trust company incorporated under the laws of the state which may act as a depository of the proceeds of bonds or of revenues to furnish such indemnifying bonds or to pledge such securities as may be required by the district. Such resolution or trust agreement may set forth the rights and remedies of the bondholders and of the trustees, if any, and may restrict the individual right of action by bondholders. The board of supervisors may provide for the payment of the proceeds of the sale of the bonds and the revenues of any project to such officer, board or depository as it may designate for the custody thereof, and for the method of disbursement thereof with such safeguards and restrictions as it may

determine. All expenses incurred in carrying out the provisions of such resolution or trust agreement may be treated as part of the cost of operation of the project to which such trust agreement pertains. (Ord, No. 74-4, § 31)

#### **Sec. 9-134. Sale of bonds.**

Bonds may be sold in blocks or installments at different times or an entire issue or series may be sold at one time. Bonds may be sold at public or private sale after such advertisement, if any, as the board of supervisors may deem advisable but not in any event at less than ninety (90) percent of the par value thereof, together with accrued interest thereon. Bonds may be sold or exchanged for refunding bonds. Special assessments and revenue bonds may be delivered as payment by the district of the purchase price or lease of any project or part thereof, or a combination of projects or parts thereof, or as the purchase price or exchanged for any property, real, personal or mixed, including franchises, or services rendered by any contractor, engineer or other person, all at one time or in blocks from time to time, in such manner and upon such terms as the board of supervisors in its discretion shall determine. The price or prices for any bonds sold, exchanged or delivered may be:

- (1) The money paid for the bonds,
- (2) The principal amount, plus accrued interest to the date of redemption or exchange, of outstanding obligations exchanged for refunding bonds,
- (3) In the case of special assessment or revenue bonds, the amount of any indebtedness to contractors or other persons paid with such bonds, or the fair value of any properties exchanged for the bonds, as determined by the board of supervisors. (Ord. No. 74-4, § 32; Ord. No. 77-4, § 3(E))

#### **Sec. 9-135. Authorization and form of bonds.**

Bonds may be authorized by resolution or resolutions of the board of supervisors which shall be adopted by a majority of all of the members thereof then in office. Such resolution or resolutions may be adopted at the same meeting at which they are introduced, and need not be published or posted. The board of supervisors may by resolution authorize the issuance of bonds, fix the aggregate amount of bonds to be issued, the purpose or purposes for which the moneys derived therefrom shall be expended, the rate or rates of interest, which shall not exceed the legal rate per annum, the denomination of the bonds, whether or not the bonds are to be issued in one or more series, the date or dates thereof, the date or dates of maturity, which shall not exceed forty (40) years from their respective dates of issuance, the medium of payment, the place or places within or without the state where payment shall be made, registration privileges, redemption terms and privileges (whether with or without premium), the manner of execution, the form of the bonds, including any interest coupons to be attached thereto, the manner of execution of bonds and coupons, and any and all other terms, covenants and conditions thereof, and the establishment of reserve or other funds. Such authorizing resolution may further provide that such bonds may be executed manually or by engraved, lithographed or facsimile signature, provided that where signatures are engraved, lithographed or facsimile no bond shall be valid unless countersigned by a registrar or other officer designated by appropriate resolution of the board of supervisors. The seal of the district may be affixed, lithographed, engraved or otherwise reproduced in facsimile on such bonds. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. (Ord. No. 74-4, § 33)

**Sec. 9-136. Interim certificates; replacement certificates.**

Pending the preparation of definitive bonds, the board of supervisors may issue interim certificates or receipts or temporary bonds, in such form and with such provisions as the board of supervisors may determine, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The board of supervisors may also provide for the replacement of any bonds which shall become mutilated or be lost; or destroyed. (Ord. No. 74-4, § 34)

**Sec. 9-137. Negotiability of bonds.**

Any bond issued hereunder and any interim certificate, receipt or temporary bond shall, in the absence of an express recital on the face thereof that it is nonnegotiable, be fully negotiable and shall be and constitute negotiable instruments within the meaning and for all purposes of the law merchant and the laws of the state. (Ord. No. 74-4, § 35)

**Sec. 9-138. Covenants.**

Any resolution authorizing the issuance of bonds may contain such covenants as the board of supervisors may deem advisable and all such covenants shall constitute valid and legally binding and enforceable contracts between the district and the bondholders, regardless of the time of issuance thereof. Such covenants may include, without limitation, covenants concerning the disposition of the bond proceeds, the use and disposition of project revenues, the pledging of revenues, taxes and assessments, the obligations of the district with respect to the operation of the project and the maintenance of adequate project revenues, the issuance of additional bonds, the appointment, powers and duties of trustees and receivers, the acquisition of outstanding bonds and obligations, restrictions on the establishing of competing projects or facilities, restrictions on the sale or disposal of the assets and property of the district, the priority of assessment liens, the priority of claims by bondholders on the taxing power of the district, the maintenance of deposits to assure the payment of revenues by users of district facilities and services, the discontinuance of district services by reason of delinquent payments, acceleration upon default, the execution of necessary instruments, the procedure for amending or abrogating covenants with the bondholders, and such other covenants as may be deemed necessary or desirable for the security of the bondholders. (Ord. No. 74-4, § 36)

**Sec. 9-139. Pledge by county.**

Highlands County hereby pledges to the holders of any bonds issued under this article that it will not, by a mandatory county ordinance or otherwise, limit or alter the rights of the district to own, acquire, construct, reconstruct, improve, maintain, operate or furnish the projects or to levy and collect the taxes, assessments, rentals, rates, fees and other charges provided for herein and to fulfill the terms of any agreement made with the holders of such bonds or other obligations, that it will not in any way impair the rights or remedies of the holders, and that it will not modify in any way the exemption from taxation provided herein, until all such bonds together with interest thereon, and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully met and discharged. (Ord. No. 74-4, § 37)

**Sec. 9-140. Issuance of bond anticipation notes.**

For the purpose of providing all or any part of the funds necessary to pay the cost of any project or part thereof pending issuance by the district of bonds which shall have been duly authorized to be issued by the district to provide the long-term financing of such cost, the board of supervisors may issue bond anticipation notes of the district in anticipation of the issuance by the district of such bonds, which notes shall be payable from the proceeds which shall be derived by the district from the sale of such bonds upon the issuance thereof



or from the sale of bond anticipation notes issued to extend and renew the indebtedness and, if necessary, from the assessments and/or other revenues which shall be pledged to the payment of the debt service for such bonds. Such notes shall be in such denomination or denominations, bear interest at such rate or rates, not exceeding the maximum legal rate prescribed by general law, mature at such time or times not later than five (5) years from the date of issuance, and be in such form and executed in such manner as the board of supervisors shall prescribe. Such notes may be sold at either public or private sale; and if such notes shall be renewal notes, they may be exchanged for the outstanding notes refunded thereby on such terms as the board of supervisors shall determine. (Ord. No. 74-4, 43; Ord. No. 89-1, § 3)

**Sec. 9-141. Short term borrowing.**

The district at any time may obtain loans, in such amount and on such terms and conditions as the board may approve, for the purpose of paying any of the expenses of the district or any costs incurred or that may be incurred in connection with any of the projects of the district, which loans shall have a term not exceeding two (2) years from the date of issuance thereof, and may be renewable for a like term or terms, shall bear such interest as the board may determine, not to exceed ten (10) per cent per annum, and may be payable from and secured by a pledge of such funds, revenues, taxes and assessments as the board may determine, for the purpose of defraying such costs and expenses, the district may issue negotiable notes, warrants or other evidences of debt signed on behalf of the district by any one of the board duly authorized by the board, such notes or other evidences of indebtedness to be payable at such times, to bear such interest as the board may determine not to exceed ten (10) per cent per annum, and to be sold or discounted at such price or prices and on such terms as the board may deem advisable. The board shall have the right to provide for the payment thereof by pledging the whole or any part of the funds, revenues, taxes and assessments of the district. The approval of the qualified electors who are freeholders residing in the district shall not be necessary except where required by the state constitution. (Ord. No. 74-4, § 44)

**Secs. 9-142-9-150. Reserved.**

**Sec. 9-151. Ad valorem taxes – Authority to levy.**

The board of supervisors shall have the power to levy and assess an ad valorem tax on all the taxable real and tangible personal property in the district to pay the principal of and interest on any general obligation bonds of the district, to provide for any sinking or other funds established in connection with any such bonds. The ad valorem tax provided for herein shall be in addition to county and all other ad valorem taxes provided for by law. Such tax shall be assessed, levied and collected in the same manner and same time as county taxes. (Ord. No. 74-4, § 17)

**Sec. 9-152. Same-Determining property value.**

Ad valorem taxes of the district shall be based on the assessed valuation for county taxes of the real and personal property subject to such district ad valorem taxes. (Ord. No. 74-4, § 19)

**Sec. 9-153. Maintenance taxes.**

(a) To maintain and preserve the improvements of the district a maintenance tax may be levied by the board of supervisors and shall be evidenced to and certified by the board of supervisors not later than August thirty-first of each year to the county property appraiser and shall be collected by the tax collector in the same manner and time as county taxes and the proceeds therefrom paid to the district. The tax shall be a lien until paid on the property against which assessed and enforceable in like manner as county taxes.













Section 3. Amendments. The District Charter is hereby amended in the following respects:

(A) Paragraph (11) of Section 8 thereof is hereby amended to read as follows:

"(11) to own, acquire, construct, operate and maintain parks, playgrounds, picnic grounds, camping facilities, water recreation facilities, golfing and tennis facilities and other recreational facilities of all kinds within the District."

(B) The following paragraph is hereby added to Section 8 thereof:

"(12) to provide protection against fire and for such purposes to acquire, construct, own, operate and maintain hydrants, automotive vehicles and fire extinguishing equipment, station facilities and such other equipment and facilities as may be necessary or desirable in order to give adequate fire protection."

(C) There shall be added to Section 18 thereof the following additional paragraph:

"Such maintenance tax may be an ad valorem tax or assessed on a flat rate basis, calling for an equal assessment upon each lot or parcel assessed, as shall from time to time be determined by the Board of Supervisors, upon a finding by such Board as to which basis, or combination thereof, shall be most equitable and fair under the circumstances and upon consideration of the special benefits resulting from such maintenance and preservation of the improvements of the District or any part thereof."

(D) Section 30 thereof is hereby amended to read as follows:

"Section 30. Assessable Improvements; Levy and Payment of Special Assessments; Assessment Bonds and Certificates. The District may provide for the construction or reconstruction of assessable improvements, for the levying of special assessments upon benefited property for the payment thereof and for the issuance of bonds payable from such assessments, and the District may proceed under the provisions of Chapter 170, Florida Statutes, as if the District were a municipality and the proposed project were one described in Section 170.01 of such Chapter, except as hereinafter provided otherwise:

"Special assessments against properties deemed to be benefited by a project shall be assessed upon such properties in proportion to the benefits, determined and prorated on a flat rate basis (providing an equal assessment upon each lot or parcel assessed), or on an area basis, or according to the front footage of the respective properties assessed or on such other basis as the Board of Supervisors may prescribe as being most equitable and fair under the circumstances.

"The Board of Supervisors may declare that any assessments may be made payable in not more than forty (40) equal yearly installments, with interest on the unpaid balance thereof at a rate not to exceed ten per centum (10%) per annum, to which, if not paid when due, there shall be added the penalty prescribed by such Chapter.

"Bonds payable from such assessments shall be executed with the manual or facsimile signatures of the President and the Secretary of the Board of Supervisors, shall bear interest at such rate or rates not exceeding ten per centum (10%) per annum, payable annually or semiannually, shall mature at such time or times not exceeding forty (40) years and shall be sold in such manner and at such price as the Board of Supervisors may determine to be for the best interests of the District, but no such sale may be made at a price of less than ninety per centum (90%) of the par value of the bonds or at a net interest cost greater than ten per centum (10%) per annum."

(E) The percentage of par value at which bonds may be sold referred to in Section 32 thereof as "ninety-five (95) percent" is hereby amended to read "ninety per centum (90%)."

(F) Wherever there appears a reference therein to the "county tax assessor" or the "tax assessor" the same shall be amended to read: "county property appraiser."

(G) The Board of County Commissioners of Highlands County and/or the property appraiser of Highlands County and tax collector of Highlands County, shall have the right to levy against the funds collected in the District in sufficient sums to pay the cost of administration.

Section 4. Enactment of This Ordinance and Effective Date.

This ordinance is enacted pursuant to notice given by the Clerk of this Board of the Board's intent to consider the same, published in a newspaper of general circulation within Highlands County at least fifteen (15) days prior to enactment, excluding Saturdays, Sundays, and legal holidays. Such notice and proof of publication thereof shall be kept by such Clerk in a separate book open to the public for inspection during the regular business hours of his office. A certified copy of this ordinance, as enacted, shall be filed by said Clerk in the office of the Secretary of State of Florida within ten days after enactment, and this ordinance shall take effect upon receipt of official acknowledgment from the Secretary of State that this ordinance has been filed with his office.

PASSED AND DULY ENACTED BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF HIGHLANDS, FLORIDA, this 19<sup>th</sup> day of July, A. D., 1977.

BOARD OF COUNTY COMMISSIONERS  
OF HIGHLANDS COUNTY, FLORIDA

BY:

Norman J. Peters  
Chairman  
Robert Skippy  
Willie Clough  
A. J. Braddy  
Jack P. Skipp

Attest:

Earl R. R. R.



JAN 3 11 56 AM '78  
EARL R. R. R.  
HIGHLANDS COUNTY, FLA.

FILED AND RECORDED

392742

AN ORDINANCE AMENDING HIGHLANDS COUNTY ORDINANCE NO. 74-4 ENTITLED; "AN ORDINANCE CREATING AND ESTABLISHING SUN 'N LAKE OF SEBRING IMPROVEMENT DISTRICT IN HIGHLANDS COUNTY, FLORIDA; FIXING ITS BOUNDARIES; PROVIDING FOR A GOVERNING BODY; AND PROVIDING FOR THE POWERS, FUNCTIONS AND DUTIES OF THE DISTRICT AND ITS GOVERNING BODY; AND PROVIDING FOR AN EFFECTIVE DATE;" AS AMENDED BY ORDINANCE NO. 77-4; FOR THE PURPOSE OF INCREASING THE TERRITORY OF THE DISTRICT; AMENDING THE DEFINITION OF LANDOWNER; CHANGING THE TIME OF THE ANNUAL MEETING OF THE LANDOWNERS OF THE DISTRICT; MODIFYING THE VOTING REQUIREMENTS OF LANDOWNERS; AMENDING THE INTEREST RATE PAYABLE ON SPECIAL ASSESSMENTS AND ON BONDS OF THE DISTRICT AND AUTHORIZING ASSESSMENTS PAYABLE IN EQUAL INSTALLMENTS OF COMBINED PRINCIPAL AND INTEREST; AUTHORIZING THE DISTRICT TO CONDUCT A MOSQUITO CONTROL PROGRAM; AMENDING THE BIDDING REQUIREMENTS FOR PURCHASES OR IMPROVEMENTS BY THE DISTRICT COSTING LESS THAN \$5,000; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners of Highlands County, Florida, enacted Ordinance 74-4 (the "District Charter") on April 18, 1974 for the purpose of creating the Sun 'n Lake of Sebring Improvement District (the "District"), and amended the District Charter by Ordinance No. 77-4 enacted on July 19, 1977; and

WHEREAS, said Board has received requests from the District to further amend the District Charter to change the time of the annual meeting of the landowners of the District, to amend the definition of landowner and to modify the voting requirements of landowners, in order to allow landowners of the District a greater influence in the government of the District; and

WHEREAS, the Developer has requested that the boundaries of the District be enlarged to include the additional lands described in Section 1 hereof and said Board has considered such request and has determined that such enlargement of the District is in the best interests of the District and the County and its citizens and inhabitants; and

WHEREAS, said Board is advised that due to the effects of inflation and the prevailing conditions in the

market for bonds of the type which have heretofore been issued by the District and which the District proposes to issue in the future, it is necessary that the District Charter be amended to permit assessments for assessable improvements to bear interest at a rate not exceeding one per centum (1%) above the rate of interest at which the bonds authorized pursuant to the District Charter for the purpose of financing such improvements shall be sold, and to permit such assessments to be payable in equal installments of combined principal and interest, and to permit all bonds of the District to bear interest at such rate or rates as shall not exceed interest rates permissible under general law applicable to issuers of public obligations generally; and

WHEREAS, it is reasonable that an amount below which competitive bidding shall not be required for purchases by the District should be established, and said Board has determined that \$5,000 is an appropriate amount; and

WHEREAS, the District has expressed a desire to provide mosquito control within the District and said Board has determined that it is in the best interest of the District and the County to amend the District Charter to grant such powers to the District for the well being of all concerned;

NOW THEREFORE, be it ordained by the Board of County Commissioners of Highlands County, Florida, as follows:

Section 1. Section 1 of the District Charter is hereby amended to add thereto, to be included within the District, the land described as:

"The NW-1/4 of SE-1/4 of Section 4, Township 34 South, Range 28 East, Highlands County, Florida."

Section 2. Paragraph 6 of Section 2 of the District Charter is hereby modified to read as follows:

"(6) "Landowner" means the owner of a freehold estate as appears by the deed record, including a trustee, a private corporation, and an owner of a Condominium unit; it does not include a reversioner, remainderman, or mortgagee."

Section 3. Paragraph (2) of Section 3 of the District Charter is hereby amended to read as follows:

"(2) The annual meeting of the landowners of the District shall be held on the fourth Friday in January of each year, at such time within normal business hours as the Board of Supervisors shall determine. If for any reason any annual meeting cannot be held as in this subsection provided, then such meeting shall be held as soon as practicable after the day herein specified. Members of the Board of Supervisors shall be elected by majority vote of the landowners of the District as the terms of such members shall expire.

Section 4. Section 3(4) of the District Charter is hereby modified to read as follows:

"3(4) Each landowner shall be entitled to cast one vote for each acre, or fraction thereof, of land not subdivided into lots and one vote for each subdivided lot, or fraction thereof, owned by him and located in the District for each person to be elected. A landowner may vote in person or by proxy in writing."

Section 5. Section 8 of the District Charter is modified to add thereto the following:

"(13) Mosquito Control - To provide a program of mosquito control within the District."

Section 6. The third and fourth paragraphs of Section 30 of the District Charter are hereby amended to read as follows:

"The Board of Supervisors may declare that any assessment may be made payable in not more than forty (40) equal yearly installments, with interest on the unpaid balance thereof at a rate not to exceed ten per centum (10%) per year, or, if bonds are to be issued hereunder to finance the cost of such project, at a rate not to exceed one per centum (1%) above the rate of interest at which such bonds shall be sold, from the date of the acceptance of the project, to which, if not paid when due, there shall be added the penalty prescribed by such Chapter. The Board of Supervisors may declare that any assessments may be made payable in not more than forty (40) equal yearly installments of the combined assessment and aggregate interest thereon or in not more than forty (40) equal yearly installments, with interest on the unpaid balance thereof, as the Board of Supervisors may determine to be in the best interest of the District. Bonds payable from such assessments shall be executed with the manual or facsimile signatures of the President and the Secretary of the Board of Supervisors, shall bear interest as provided in Section 215.84, Florida Statutes (1982), or as the same shall be hereafter amended, payable annually or semiannually, shall mature at such time or times not exceeding forty (40) years and shall be sold in such manner and at such price as the Board of Supervisors may determine to be for the interest of the District, but no such sale may be made at a price of less than ninety per centum (90%) of the par value of the bonds or at a net interest cost greater than that permitted under said Section 215.84 or as amended."

Section 7. Section 48 of the District Charter is



hereby amended to add thereto:

By Mary Eiland D.C.

"Competitive bidding shall not be required for purchases or improvements costing less than \$5,000."

Section 8. If any section or part of a section of this ordinance shall be held invalid, it shall not affect the validity of the remaining portions of this Ordinance, but said portions shall remain in full force and effect.

Section 9. This Ordinance is enacted pursuant to notice given by the Clerk of this Board of the Board's intent to consider the same, published in a newspaper of general circulation within Highlands County at least fifteen (15) days prior to enactment, excluding Saturdays and Sundays and legal holidays. Such notice and proof of publication thereof shall be kept by such Clerk in a separate book open to the public for inspection during the regular business hours of his office. A certified copy of this Ordinance, as enacted, shall be filed by said Clerk in his office of the Secretary of State of Florida within ten (10) days after enactment, and this Ordinance shall take effect upon receipt of official acknowledgment from the Secretary of State that this Ordinance has been filed with his office.

PASSED AND DULY ENACTED BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF HIGHLANDS, FLORIDA, this 18th day of October, 1983.

BOARD OF COUNTY COMMISSIONERS  
HIGHLANDS COUNTY, FLORIDA

By: James R. Bogle  
Chairman

Attest:

Earl Rich, Clerk  
R. James M. Bogle, Jr.  
Clerk

COUNTY ORDINANCE NO. 89-1

AN ORDINANCE FURTHER AMENDING HIGHLANDS COUNTY ORDINANCE NO. 74-4 ENTITLED: "AN ORDINANCE CREATING AND ESTABLISHING SUN 'N LAKE OF SEBRING IMPROVEMENT DISTRICT IN HIGHLANDS COUNTY, FLORIDA; FIXING ITS BOUNDARIES; PROVIDING FOR A GOVERNING BODY; AND PROVIDING FOR THE POWERS, FUNCTIONS AND DUTIES OF THE DISTRICT AND ITS GOVERNING BODY; AND PROVIDING FOR AN EFFECTIVE DATE", AS HERETOFORE AMENDED BY COUNTY ORDINANCE NO. 77-4 AND BY COUNTY ORDINANCE NO. 83-11; WITH RESPECT TO RECITAL OF STATUTORY AUTHORITY FOR THE ORDINANCE, TO THE MANNER OF THE LEVY OF SPECIAL ASSESSMENTS UPON PROPERTY SITUATED IN THE DISTRICT FOR THE PURPOSE OF FINANCING PUBLIC IMPROVEMENTS, AND TO THE ISSUANCE OF BONDS AND BOND ANTICIPATION NOTES OF THE DISTRICT; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF HIGHLANDS COUNTY, FLORIDA:

SECTION 1. DEFINITIONS. As used in this ordinance, the words and terms which are defined in the District Charter shall have the respective meanings assigned thereto by the District Charter, and the following words and terms shall have the following meanings, unless some other meaning is plainly intended:

"Act" shall mean Chapter 125, Florida Statutes, as amended.

"Board" shall mean the Board of County Commissioners of the County.

"County" shall mean Highlands County, Florida.

"District Charter" shall mean Highlands County Ordinance No. 74-4 enacted by the Board on April 16, 1974 for the purpose of creating the District, the title of which is quoted in the title of this ordinance, as amended by Highlands County Ordinance No. 77-4 enacted July 19, 1977 and Highlands County Ordinance No. 83-11 enacted October 18, 1983.

"State" shall mean the State of Florida.

The terms "herein," "hereunder," "hereby," "hereto," "hereof," and any similar term shall refer to this ordinance; the term "heretofore" shall mean before the date of enactment of this

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EARL RICH, CLERK  
By L. G. Baker D.C.

ordinance; and the term "hereafter" shall mean after the date of enactment of this ordinance; except, however, where any such term is contained in language to be inserted in the District Charter, such term shall refer to or relate to the District Charter.

Words importing the singular number shall include the plural number and vice versa.

SECTION 2. FINDINGS. It is hereby found, determined and declared that:

A. Pursuant to Article VIII, Section 1 of the Constitution of the State and Sections 125.01 and 125.66 of the Act, the County, acting by and through the Board, has all powers of local self-government to perform county functions and to render public services in a manner not inconsistent with general or special law and such power may be exercised by the enactment of county ordinances.

B. In order to provide for orderly growth and economic progress and assure the future welfare and continued prosperity of the County and its citizens, including those who reside in the District and others who own property within the District, and to protect the environment, increase the County's tax base and avoid unnecessary governmental expense in the future, on April 16, 1974 the Board created the District by enactment of the District Charter; and the Board has subsequently amended the same in response to changing circumstances and for the best interest of the County and its citizens.

C. The District has requested that the Board further amend the District Charter in the manner hereinafter provided, and it is in the best interest of the public health, safety, economy and general welfare of the County and its citizens, including those who reside in the District and others who own property within the District, that the District Charter be amended in the manner hereinafter provided.

SECTION 3. AMENDMENTS TO DISTRICT CHARTER. Pursuant to authority vested in the Board by virtue of the Act, the District Charter is hereby amended in the following respects:

A. The ninth paragraph thereof is hereby amended to read as follows:

"WHEREAS, pursuant to Article VIII, Section 1 of the Constitution of the State of Florida and Sections 125.01 and 125.66, Florida Statutes, as amended, the Board of County Commissioners of Highlands County, Florida, has all powers of local self-government to perform county functions and render public

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By L. D. Rich D.C.

services in a manner not inconsistent with general or special law and such power may be exercised by the enactment of county ordinances; and"

B. The following additional paragraphs shall be added to Section 30 thereof:

"If all of the owners of the lots and parcels of property to be assessed shall consent in writing to the terms of any proposed assessment as stated in the resolution of the Board of Supervisors adopted pursuant to Section 170.03, Florida Statutes, and as shown on the preliminary assessment roll prepared pursuant to Section 170.06, Florida Statutes, then the District shall not be required to publish said resolution in the manner provided by Section 170.05, Florida Statutes, or otherwise, nor shall any hearing be required to be held by the Board of Supervisors as provided in Section 170.07, Florida Statutes. A final assessment roll may be established by resolution of the Board of Supervisors based upon such written consent of all of the owners of the lots and parcels to be assessed.

"The Board of Supervisors may authorize the issuance of bonds payable from assessments prior to the Board's award of the contract for the construction of the improvements for which such assessments shall be levied and in an aggregate principal amount equal to the aggregate amount of such assessments plus the amount of a debt service reserve for such bonds; and it shall not be necessary that such bonds shall bear any certificate that the amount of liens levied, the proceeds of which are pledged to the payment of said bonds, are equal to the amount of the bonds issued. No bond issued pursuant to authority granted by this ordinance shall be required to bear interest after maturity at any rate which shall be less than the rate of interest such bond shall be permitted by general law to bear prior to maturity.

"If the Board of Supervisors has, or shall have, levied assessments hereunder which are, or shall be, pledged to the payment of outstanding bonds of the District, any of the lands subject to the liens of such assessments may be replatted for the purpose of rerouting roads or dedicating land for drainage, recreational or other nonresidential use or for any other appropriate reason, and the District may levy assessments upon the resulting newly-platted residential lots, with the written consent of all of the owners thereof, in amounts sufficient to provide for the debt service requirements of refunding bonds, hereby authorized, to be issued by the District to provide proceeds sufficient to prepay in full the said original assessments upon such lands which are or shall be pledged to such outstanding bonds, to pay the costs of issuance of such refunding bonds and to provide a debt service reserve for such refunding bonds."

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EARL RICH, CLERK

By L. J. Neal D.C.

C. Section 43 thereof is hereby amended to read as follows:

"Section 43. Issuance of Bond Anticipation Notes. - For the purpose of providing all or any part of the funds necessary to pay the Cost of any project or part thereof pending issuance by the District of bonds which shall have been duly authorized to be issued by the District to provide the long-term financing of such Cost, the Board of Supervisors may issue bond anticipation notes of the District in anticipation of the issuance by the District of such bonds, which notes shall be payable from the proceeds which shall be derived by the District from the sale of such bonds upon the issuance thereof or from the sale of bond anticipation notes issued to extend and renew the indebtedness and, if necessary, from the assessments and/or other revenues which shall be pledged to the payment of the debt service for such bonds. Such notes shall be in such denomination or denominations, bear interest at such rate or rates, not exceeding the maximum legal rate prescribed by general law, mature at such time or times not later than five years from the date of issuance, and be in such form and executed in such manner as the Board of Supervisors shall prescribe. Such notes may be sold at either public or private sale; and if such notes shall be renewal notes, they may be exchanged for the outstanding notes refunded thereby on such terms as the Board of Supervisors shall determine."

SECTION 4. SEVERABILITY OF INVALID PROVISIONS. If any one or more of the provisions of this ordinance shall be held contrary to any express provision of law or contrary to the policy of express law, though not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such provisions shall be null and void and shall be deemed separate from the remaining provisions of this ordinance.

SECTION 5. ENACTMENT AND EFFECTIVE DATE. This ordinance is enacted at a regular meeting of the Board, notice of intent to consider the same having been given by the Clerk of the Board by publication in a newspaper of general circulation within the County fifteen (15) days prior to such meeting, excluding Sundays and legal holidays. A copy of this ordinance has been kept in the office of the Clerk available to the public for inspection during regular business hours. A certified copy of this ordinance, as enacted, shall be filed by the Clerk with the Department of State of Florida within ten (10) days after enactment, and this ordinance shall take effect upon receipt of of-

CERTIFIED

TO BE A TRUE COPY

EARL RICH, CLERK


By L. G. Gue D.C.



official acknowledgment from said office that this ordinance has been so filed.

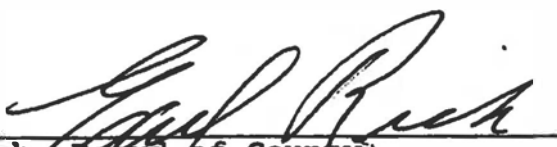
ENACTED BY THE BOARD OF COUNTY COMMISSIONERS OF HIGHLANDS COUNTY, FLORIDA, this 21<sup>st</sup> day of February, 1989.

HIGHLANDS COUNTY, FLORIDA

  
Chairman, Board of County  
Commissioners, Highlands County,  
Florida

(SEAL)

ATTEST:

  
Clerk, Board of County  
Commissioners, Highlands County,  
Florida

CERTIFICATE OF TRUE COPY

I do hereby certify that the foregoing is a true and correct copy of Highlands County Ordinance No. 89-I, duly enacted by the Board of County Commissioners of Highlands County, Florida, on February 21, 1989.

(SEAL)

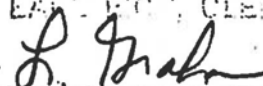
  
Clerk, Board of County  
Commissioners, Highlands County,  
Florida

DG100D1

CERTIFIED

TO BE A TRUE COPY

CLERK

By  D.C.

1 2 3 5 0  
ORDINANCE 93- 19

CLERK TO BOARD  
HIGHLANDS COUNTY.

JAN 8 11 13 AM

AN ORDINANCE AMENDING THE DEFINITION OF "LAND-  
OWNER" WITHIN SECTION 9-81 OF THE CODE OF  
ORDINANCES, HIGHLANDS COUNTY, FLORIDA, TO  
CLARIFY THAT THE SUN 'N LAKE OF SEBRING  
IMPROVEMENT DISTRICT IS A LANDOWNER BASED  
UPON, AMONG OTHER THINGS, CERTIFICATES OF TITLE  
ISSUED PURSUANT TO FORECLOSURE PROCEEDINGS,  
AND TO AMEND PARAGRAPH (d) OF SECTION 9-106 OF  
THE CODE OF ORDINANCES, HIGHLANDS COUNTY,  
FLORIDA, TO ADD THE REQUIREMENT THAT NO  
LANDOWNER MAY CAST A VOTE FOR A LOT OR OTHER  
LAND OWNED FOR WHICH ANY ASSESSMENT, FEE, RATE,  
RENTAL, OR OTHER CHARGE IMPOSED BY THE DISTRICT  
IS DELINQUENT AT THE TIME OF THE ELECTION OF THE  
BOARD OF SUPERVISORS

SECRETARY OF STATE

JAN 3 2 20 PM '54

WHEREAS, it is reasonable that the definition of "landowner" shall extend to the Sun 'n Lake of Sebring Improvement District ("DISTRICT") for lots held in the name of the DISTRICT based upon, among other things, certificates of title issued pursuant to foreclosure proceedings for nonpayment of DISTRICT assessments, fees, rates, rentals, and other charges; and further, that the DISTRICT, as legal title holder of record, shall be entitled to vote said lots in any election in which land or subdivided lot ownership is a prerequisite to casting a vote in any election held within the DISTRICT; and

WHEREAS, this amendment is enacted in clarification of the authority of the right to vote lots held in the name of the DISTRICT in such elections; and

WHEREAS, the DISTRICT imposes assessments, fees, rates, rentals, and other charges (hereinafter "ASSESSMENTS") on certain benefited lots within the DISTRICT to raise sufficient revenues to maintain its facilities and services and to exercise the powers and authorities provided for by Highlands County Ordinance 74-4, as amended from time to time; and

WHEREAS, from time to time landowners within the DISTRICT have failed to pay the said ASSESSMENTS on their respective lots or other land owned; and

WHEREAS, nonpayment of said ASSESSMENTS has caused the DISTRICT financial hardship based upon nonrealization of necessary and anticipated revenues.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF HIGHLANDS COUNTY, FLORIDA:

SECTION 1.

The definition of "landowner" contained within Section 9-81 of the Code of Ordinances,

Highlands County, Florida, is hereby amended to read as follows:

*Landowner* means the owner of a freehold estate as appears by the deed record, including a trustee, a private corporation, and an owner of a condominium unit; it does not include a reversioner, remainderman, or mortgagee. For purposes of this definition, "landowner" shall include the Sun 'n Lake of Sebring Improvement District for lots held in the name of the District based upon, among other things, certificates of title issue pursuant to foreclosure proceedings for nonpayment of District assessments, fees, rates, rentals and other charges.

## SECTION 2.

Paragraph (d) of Section 9-106 of the Code of Ordinances, Highlands County, Florida, is hereby amended to read as follows:

Each landowner shall be entitled to cast one vote for each acre, or fraction thereof, of land not subdivided into lots and one vote for each subdivided lot, or fraction thereof, owned by him and located in the District for each person to be elected. A landowner may vote in person or by proxy in writing. A landowner shall not be entitled to cast a vote for any land and/or subdivided lots owned by said landowner for which any assessment, fee, rate, rental or other charge imposed by the District is delinquent at the time of the election.

## SECTION 3.

This Ordinance shall become effective upon receipt of official acknowledgement from the Secretary of State that this Ordinance has been filed with that office.

DONE AND ADOPTED this 21st day of September, 1993.

BOARD OF COUNTY COMMISSIONERS  
HIGHLANDS COUNTY, FLORIDA

By: \_\_\_\_\_

Audrey Vickers, Chairman

ATTEST:

By: \_\_\_\_\_

L. E. "Luke" Brooker, Clerk

200  
ORDINANCE 95- 9

AN ORDINANCE AMENDING THE DEFINITION OF "QUORUM" WITHIN SECTION 9-84 OF THE CODE OF ORDINANCES, HIGHLANDS COUNTY, FLORIDA, TO APPLY TO ANY MEETING OF THE LANDOWNERS WITHIN THE SUN 'N LAKE OF SEBRING IMPROVEMENT DISTRICT.

**WHEREAS**, landowners representing a majority of the number of acres in the Sun 'n Lake of Sebring Improvement District ("District"), present in person or by proxy, are required to constitute a quorum at any meeting of the landowners within the District for landowners' meetings and elections; and

**WHEREAS**, with the increasing diversity of ownership of lots within the District due to development, it is very difficult to obtain a quorum for landowner meetings and elections within the District under the current definition; and

**WHEREAS**, Chapter 189, Florida Statutes, governing Special Districts within the State of Florida, simply requires that a majority of the acreage represented either by owner or proxy present and voting at the meeting, are required to constitute a quorum. It is not required that 50% of the District acreage is required to constitute a quorum; and

**WHEREAS**, it is reasonable and desirable that the definition of quorum for purposes of land owners elections within the District can be relaxed and conform to the requirements of general law.

**NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF HIGHLANDS COUNTY, FLORIDA:**

**SECTION 1.**

The definition of "quorum" contained within Section 9-84(c) of the Code of Ordinances, Highlands County, Florida, is hereby amended to read as follows:

(c) *Quorum*. At any landowners' meeting called pursuant to this section, 50 percent of the district acreage shall not be required to constitute a quorum and each member of the board of supervisors shall be elected by a majority of the acreage represented either by owner or proxy present and voting at said meeting.

**SECTION 2.**

This Ordinance shall become effective upon receipt of official acknowledgement from the Secretary of State that this Ordinance has been filed with that office.

**DONE AND ADOPTED** this 11<sup>th</sup> day of April, 1995.

**BOARD OR COUNTY COMMISSIONERS  
HIGHLANDS COUNTY, FLORIDA**

By: C. Guy Macky  
C. "Guy" Macky, Chairman

**ATTEST:**



By: L. E. "Luke" Brooker  
L. E. "Luke" Brooker, Clerk



*C. J. Harris* 7/1/96

**ORDINANCE 96- 11**

AN ORDINANCE AMENDING SECTION 9-98 OF THE CODE OF ORDINANCES, HIGHLANDS COUNTY, FLORIDA, TO ALLOW PURCHASES BASED ON COMPETITIVE BIDS OBTAINED BY OTHER GOVERNMENTAL ENTITIES AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, from time to time, the Improvement District has need to purchase commodities and obtain contractual services, and the bids received by the District for such commodities or services can be obtained more cheaply or efficiently through the utilization of competitive bids obtained by other governmental entities; and

WHEREAS, from time to time, the District has need of acquiring commodities or contractual services in a more timely fashion than is afforded by the bid process, when such commodities or services are available through competitive bids of other governmental entities.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF HIGHLANDS COUNTY, FLORIDA:

**SECTION 1.**

Section 9-98 of the Code of Ordinances, Highlands County, Florida is hereby amended to read as follows:

- (d) **EXCEPTIONS.** In the event that the purchase price of the item to be purchased is in excess of ten thousand dollars (\$10,000.00) and the item can be purchased under a State or Federal General Services Administration Contract or from the lowest and best bidder under a competitive bidding process of another governmental entity, including a county, school board, or other municipality, which bid process was completed within twelve (12) months prior to the purchase, or in the event that the item is available only from one (1) supplier, the requirement of competitive bidding herein shall not apply.

**SECTION 2.**

This Ordinance shall become effective upon receipt of official acknowledgement from the Secretary of State that this Ordinance has been filed with that office.

DONE AND ADOPTED this 25<sup>th</sup> day of June, 1996.

BOARD OF COUNTY COMMISSIONERS  
HIGHLANDS COUNTY, FLORIDA

By: *Doris M. Gentry*  
Doris Gentry, Chairman

ATTEST



D...

*[Signature]*

**Sec. 9-82 Creation of district; boundaries defined.**

~~{A}~~ [An independent] special district to be known and designated as the Sun ~~{N}~~['n] Lake of Sebring Improvement District is hereby created and established as a public body corporate in Highlands County, Florida. The Sun ~~{N}~~['n] Lake of Sebring Improvement District is an independent special district as defined in § 189.403, Florida Statutes, and shall be subject to and have all of the powers and rights granted by Chapter 189, Florida Statutes, or any successor chapter or statutes. The Sun 'n] Lake of Sebring Improvement District shall include within its territorial boundaries all of the lands within the following described boundaries:

Description of a tract of land in Township 34S, Range 28E, Highlands County, Florida, being in Sections 4, 5, 6, 7, 8, 9, 16, 17 and 18, together with that portion of Sections 3, 10 and 15, lying westerly of the west right-of-way line of U.S. Highway 27, less the NW¼ of the SE ¼ of said Section 4; less also that portion of said Section 15 platted as Fairmont Mobile Estates as recorded in Plat Book 9, Page 12 of the Public Records of Highlands County, Florida, more particularly described as follows: Commence at the northwest corner of Section 6, Township 34S, Range 28E, for a point of beginning and run thence S 89°55'21.2" E, along the north boundary of said Section 6, 5,295.52'; thence N 89°57'27.4" E, along the north boundary of said Section 5, 5,302.54' thence N 89°50'49.4" E, along the north line of said Section 4, 5,296.38'; thence S 89°45'59" E, along the north line of said Section 3, 940.91' to a point on the westerly right-of-way line of U.S. Highway 27; thence along said westerly right-of-way line, S 18°02'00" E, 14,202.74' to the northeast corner of said Fairmont Mobile Estates; thence along the northerly line of said Fairmont Mobile Estates, S 58°32'45" W, 1,619.91'; thence continue along the westerly boundary of said Fairmont Mobile Estates, S 00°11'45" W, 1,867.10' to a point on the south boundary of said Section 15; thence N 89°57'15" W, 3,941.80'; thence continue N 89°57'15" W, 15,935.76' to the southwest corner of said Section 18; thence N 00°02'53" W, along the west boundary of said Section 18, 5,355.12'; thence N 00°23'31.4" E, along the west boundary of said Section 7, 5,256.45'; thence N 00°01'24.7" E along the west boundary of said Section 6, 5,583.02' to the point of beginning. Less the following: [All the lands in Sections 6, 7, and 18, Township 34 South, Range 28 East, in Highlands County Florida lying west of the West R/W lines of Balboa Boulevard and Cayuga Drive, as shown on the plats of Sun'n Lake Estates of Sebring, Unit 10, Plat Book 9, page 60, Unit 14, Plat Book 9, page 73, Unit 21, Plat Book 10, page 34 of the Public Records of Highlands County, Florida, and the lands lying west of the west property line of Lot 153 Block 446 of said Unit 21 and it's southerly prolongation to the south R/W line of Zoreta Drive. (5791.01 acres more or less)] ~~{Commence at the northwest corner of said Section 4 and run thence along the north line of said Section 4, 2,648.19'; thence S 00°00'17" E, 2,715.14' to the center of said Section 4 for a point of beginning, run thence N 89°35'05.6" E, 1,324.64'; thence S 00°00'59" E, 1,354.54'; thence S 89°27'14" W, 1,324.94'; thence N 00°00'17" W, 1,357.57' to the point of beginning. Containing 7,109.40 acres more or less.~~

AND

The NW ¼ of the SE ¼ of Section 4, Township 34 South, Range 28 East, Highlands County, Florida.

W.O. 1683-S.}

**SECTION 2. Amendment and Adoption.** Subsection (d) of Section 9-84 of the Code of Ordinances, Highlands County, Florida, is amended and adopted to provide as follows:

(d) *Special meetings.* The board of supervisors shall have the power to call special meetings of the landowners at any time to receive reports of the board of supervisors or for such other purpose as the board of supervisors may determine. A special meeting of the landowners may also be called at any time upon notice as provided hereinabove at the written request of the owners of not less than ~~{twenty-five (25)}~~ [ten (10)] percent in acreage of the land within the district for the purpose of:

- a. Filling any vacancy on the board of supervisors remaining unfilled for more than thirty (30) days after such vacancy occurs;
- b. Recalling any supervisor theretofore elected or designated and filling such vacancy for the unexpired term; or
- c. Taking any other action by the landowners of the district.

Such special meeting shall be called by any court of competent jurisdiction in the event that the board of supervisors fails to do so upon request as provided in the preceding sentence. Except as otherwise provided in this article with respect to the election of supervisors, action taken at a meeting of the landowners shall be by the affirmative vote of the owners of at least a majority in acreage of the land within the district represented at such meeting.

**SECTION 3. Amendment and Adoption.** Subsection (g) of Section 9-90 of the Code of Ordinances, Highlands County, Florida, is amended and adopted to provide as follows:

(g) The board of supervisors shall have the power to enter into contracts for the use of the services and facilities furnished or to be furnished by the district, with the landowners and others within or without the district, for such consideration and on such other terms and conditions as the board of supervisors may approve. Such contracts shall not be subject to the provisions and limitations of this section, but shall not be entered into for a period longer than ~~{forty (40)}~~ [thirty (30)] years from the effective date thereof and shall be fair and reasonable in relation to the rates, fees, rentals or other charges to be paid by other users of the facilities and services concerned. No

hearing or notice thereof shall be required prior to the authorization or execution by the board of supervisors of any such contract, and the same shall not be subject to revision except in accordance with their terms. Such contracts and any revenues or service charges received or to be received by the district thereunder may be pledged as security for any of the bonds of the district.

**SECTION 4. Repeal.** Section 9-100 of the Code of Ordinances, Highlands County, Florida, is hereby repealed and shall henceforth be designated as "Reserved".

~~{Sec. 9-100. Administrative costs:~~

~~The board of county commissioners and/or the property appraiser of the county and tax collector of the county, shall have the right to levy against the funds collected in the district in sufficient sums to pay the cost of administration.}~~

**SECTION 5. Amendment and Adoption.** Section 9-106 of the Code of Ordinances, Highlands County, Florida, is amended and adopted to provide as follows:

**Sec. 9-106. Designated governing body; composition; election at annual meetings[; recall of supervisors].**

(a) The board of supervisors shall be the governing body of the district and shall, subject to the provisions hereof, exercise the powers granted to the district under this article.

(b) The board of supervisors shall consist of five (5) members, who shall hold office for the term specified in this section, or until their successors shall be chosen and shall qualify. Upon expiration of the initial terms, the term of office for each appointment shall be for four (4) years. Each member of the board of supervisors ~~{shall be a resident of the state and shall be an owner of land within the district.}~~ [elected by popular vote shall be a "qualified elector" as that term is defined in section 9-106(e) of this Chapter. Each member of the board of supervisors elected by the landowners voting according to ownership of property shall be composed of owners of the lands in the district and residents of Highlands County, Florida.]

(c) The annual meeting of the landowners of the district shall be held on the fourth Friday in January of each year, at such time within normal business hours as the board of supervisors shall determine. If for any reason any annual meeting cannot be held as in this subsection provided, then such meeting shall be held as soon as practicable after the day herein specified. ~~{Members}~~ [Those members] of the board of supervisors ~~{shall be}~~ [who are] elected by ~~{majority vote of}~~ the landowners of the district [shall be elected by a majority vote of the landowners (other than the district) present at the annual landowners meeting in person or by proxy in writing duly signed,] as the terms of such members shall expire.



**(d) Each landowner [(other than the district)] shall be entitled to cast one (1) vote for each acre, or fraction thereof, of land not subdivided into lots and one (1) vote for each subdivided lot, or fraction thereof, owned by ~~him~~ [the landowner] and located in the district for each person to be elected [by the landowners voting according to ownership of property]. A landowner may vote in person or by proxy in writing. A landowner shall not be entitled to cast a vote for any land and/or subdivided lots owned by said landowner for which any assessment, fee, rate, rental or other charge imposed by the district is delinquent at the time of the election. [The district shall not be entitled to cast a vote for any land and/or subdivided lots owned by the district in any election of a member of the board of supervisors of the district.**

**(e) Each person shall be entitled to vote in any election within the district for election of members of the board of supervisors who are elected by popular vote, provided that such person is a "qualified elector" as follows:**

- (1) is at least 18 years of age;**
- (2) is a citizen of the United States;**
- (3) is a permanent resident of Florida;**
- (4) is a freeholder or freeholder's spouse and a resident of the district properly registered as a voter with the Supervisor of Elections, Highlands County, when the registration books are open;**
- (5) has not been adjudicated mentally incapacitated to vote in this or any other state without restoration of his or her right to vote pursuant to law; and**
- (6) has not been convicted of any felony by any court of record without restoration of his or her right to vote pursuant to law.**

**(f) Any member of the board of supervisors, whether elected by vote of the landowners of the district, by popular vote of the qualified electors, or appointed by the supervisors pursuant to section 9-107(a) of this Chapter, may be removed from office pursuant to the recall procedures specified herein.**

- (1) For supervisors occupying a seat elected by landowner election, the procedure specified in section 9-84 of this Chapter shall be adhered to.**
- (2) For supervisors occupying a seat elected by popular vote, a petition shall be prepared naming the person sought to be recalled and containing a statement of grounds for recall in not more than 200 words limited solely to the following grounds:**



- a. malfeasance;
- b. misfeasance;
- c. neglect of duty;
- d. drunkenness;
- e. incompetence;
- f. permanent inability to perform official duties; or
- g. conviction of a felony involving moral turpitude.

(3) If more than one member of the board of supervisors occupying a seat elected by popular vote is sought to be recalled, a separate recall petition shall be prepared for each supervisor sought to be recalled. The number of signatures required on the petition and the procedures to be followed for the recall of a supervisor occupying a seat elected by popular vote will be the same as those specified in Section 100.361, Florida Statutes.]

**SECTION 6. Amendment and Adoption.** Section 9-107 of the Code of Ordinances, Highlands County, Florida, is amended and adopted to provide as follows:

**Sec. 9-107. Filling of vacancies.**

(a) All supervisors shall hold office for the terms for which they are elected or appointed and until their successors shall be chosen and qualify.

[(b)] In case of a vacancy in the office of any supervisor [elected by the landowners], the remaining supervisor or supervisors (even though less than a quorum) may fill such vacancy until the sooner occurrence of:

- (1) The next annual meeting of the landowners, when a successor to such appointee shall be elected by the landowners for the unexpired term; or
- (2) The election by the landowners of a successor to such appointee for the unexpired term, at a special meeting of the landowners called for such purpose at any time upon written request of the landowners as provided in section 9-84.

~~[(b)]~~[(c)] In the event any vacancy [in the office of any supervisor elected by the landowners] remains unfilled for more than thirty (30) days after such vacancy occurs, it may be filled by vote of the landowners at a meeting of landowners called for such purpose, and the person so elected shall replace any person who may have been elected by the remaining supervisor or supervisors after the landowners have made a written request for such an election as provided in section 9-84.

[(d) If any vacancy occurs in a seat occupied by a supervisor elected by the qualified electors, the remaining members of the board of supervisors shall, within 45 days after the vacancy occurs, appoint a person who would be eligible to hold the office to the unexpired term.]

**SECTION 7. Amendment and Adoption.** Section 9-112 of the Code of Ordinances, Highlands County, Florida, is amended and adopted to provide as follows:

**Sec. 9-112. Compensation of members.**

Each supervisor shall be entitled to receive ~~{for his services a per diem of twenty-five dollars (\$25.00) for each day actually engaged in work}~~ [\$2,400.00 per year for services performed] pertaining to the district ~~{, but not in excess in any one month of one hundred dollars (\$100.00). In addition, each supervisor shall receive reasonable traveling expenses for attending the place of meeting from his residence. Unless the board of supervisors by resolution otherwise provides, such traveling}~~. Each supervisor shall further be entitled to reasonable traveling expenses, not in excess of the rates allowed for government employees pursuant to Section 112.061, Florida Statutes, and other out-of-pocket expenses when incurred on preapproved district business. Such] expenses shall not be in excess of the amounts provided by law for state and county officials.

**SECTION 8. Amendment and Adoption.** Section 9-116 of the Code of Ordinances, Highlands County, Florida, is amended and adopted to provide as follows:

**Sec. 9-116. Same - Construction of projects.**

The board of county commissioners hereby finds and declares that in order to accomplish the purposes of this article, it is essential that the board of supervisors have discretion and authority with respect to the manner in which the construction of the projects of the district, including, but not by way of limitation, projects financed by district bonds ~~{, taxes}~~ or assessments, shall be undertaken. The board of supervisors shall have power and authority to acquire, construct, reconstruct, extend, repair, improve, maintain and operate any of the projects of the district, and to that end to employ contractors, to purchase machinery, to employ ~~{men}~~ [persons] to operate the same, and directly to have charge of and construct the projects of the district in such manner as the board of supervisors may determine.

**SECTION 9. Amendment and Adoption.** Section 9-126 of the Code of Ordinances, Highlands County, Florida, is amended and adopted to provide as follows:

**Sec. 9-126. General obligation bonds. {**

~~(a)} The district shall [not] have the power {from time to time} to issue general obligation bonds {in an aggregate principal amount of bonds outstanding at any one time not in excess of thirty-five (35) per cent of the assessed value of the taxable property within the district as shown on the pertinent tax records at the time of the authorization of the general obligation bonds for which the full faith and credit of the district is pledged. Except for refunding bonds, no general obligation bonds shall be issued unless the issuance thereof shall have been approved at an election of freeholders held in accordance with the requirements for such election as prescribed by the constitution of the state. Such elections shall be called to be held in the district by the board of county commissioners upon the request of the board of the district. The expenses of calling and holding such referendum elections shall be borne by the district and the district shall reimburse the county for any expenses incurred in calling or holding such elections. In the alternative, at the option of the board, the board may make such other provision for the registration of such qualified electors who are freeholders and the calling and holding of such elections as the board may from time to time deem appropriate.~~

~~(b) The district may pledge its full faith and credit for the payment of the principal and interest on such general obligation bonds, and for any reserve or other funds provided therefor, and may unconditionally and irrevocably pledge itself to levy ad valorem taxes on all taxable property in the district, to the extent necessary for the payment thereof, without limitations as to rate or amount.~~

~~(c) If the board shall determine to issue general obligation bonds for more than one different purpose, the approval of the issuance of the bonds for each and all such purposes may be submitted to the freeholders on one and the same ballot. The failure of the freeholders to approve the issuance of bonds for any one or more purposes shall not defeat the approval of the bonds for any purpose which shall be approved by the freeholders}.~~

**SECTION 10. Amendment and Adoption.** Subsection (a) of Section 9-127 of the Code of Ordinances, Highlands County, Florida, is amended and adopted to provide as follows:

(a) The district shall have the power to issue revenue bonds. Such revenue bonds may be secured by or payable from the gross or net pledge of the revenues to be derived from any project or combination of projects, from the rates, fees, rentals or other charges to be collected for the use of the services or facilities of any project or projects. Such [revenue] bonds shall not constitute an indebtedness of the district, and the approval of the qualified electors shall not be required ~~{unless such bonds are additionally secured by the full faith and credit and taxing power of the district}.~~

**SECTION 11. Amendment and Adoption.** Section 9-128 of the Code of Ordinances, Highlands County, Florida, is amended and adopted to provide as follows:

**Sec. 9-128. Issuance of additional [revenue] bonds.**

If the proceeds of any [revenue] bonds shall be less than the cost of completing the project in connection with which such [revenue] bonds are issued, the board of supervisors may authorize the issuance of additional [revenue] bonds, upon such terms and conditions as the board of supervisors may provide in the resolution authorizing the issuance thereof, but only in compliance with the resolution or other proceedings authorizing the issuance of the original [revenue] bonds.

**SECTION 12. Amendment and Adoption.** Section 9-129 of the Code of Ordinances, Highlands County, Florida, is amended and adopted to provide as follows:

**Sec. 9-129. Refunding [revenue] bonds.**

The district shall have the power to issue [refunding revenue] bonds to provide for the retirement or refunding of any [revenue] bonds or obligations of the district that at the time of such issuance are or subsequently thereto become due and payable, or that at the time of issuance have been called or are or will be subject to call for redemption within ten (10) years thereafter, or the surrender of which can be procured from the holders thereof at prices satisfactory to the board of supervisors. Refunding [revenue] bonds may be issued at any time when, in the judgment of the board of supervisors, such issuance will be advantageous to the district. No approval of the qualified electors residing in the district shall be required for the issuance of refunding [revenue] bonds except in cases where such approval is required by the constitution of the state. The board of supervisors may by resolution confer upon the holders of such refunding [revenue] bonds all rights, powers and remedies to which the holders would be entitled if they continued to be the owners and had possession of the [revenue] bonds for the refinancing of which such refunding bonds are issued, including, but not limited to, the preservation of the lien of such bonds on the revenues of any project or on pledged funds, without extinguishment, impairment or diminution thereof. The provisions hereof pertaining to [revenue] bonds of the district shall, unless the context otherwise requires, govern the issuance of refunding [revenue] bonds, the form and other details thereof, the rights of the holders thereof, and the duties of the board of supervisors with respect to the same.



**SECTION 13. Amendment and Adoption.** Section 9-130 of the Code of Ordinances, Highlands County, Florida, is amended and adopted to provide as follows:

**Sec. 9-130. Pledging ~~{ad valorem taxes,}~~ assessments and other revenues ~~{and properties as additional security on bonds.}~~ [as security on revenue bonds.]**

~~{The District may pledge as additional security for the payment of any of the bonds of the district its full faith and credit and ad valorem taxing power, and provide that such}~~ [The board of supervisors may provide that revenue] bonds shall be payable[, in whole or in part,] as to both principal and interest, and as to any reserve or other funds provided therefor, from ~~{ad valorem taxes}~~ [assessments] levied on the ~~{taxable real and tangible personal}~~ [real] property in the district~~{, to the full extent that any revenues, taxes, assessments or other funds, or any combination thereof pledged therefor are insufficient for the full payment of the same, and, provided further, that no bonds shall be issued to the payment of which the full faith and credit and taxing power of the district is pledged unless approved at an election in the manner provided by law}~~. The board of supervisors may also provide with respect to any revenue bonds of the district that such revenue bonds shall be payable, in whole or in part, as to both principal and interest, and as to any reserve or other funds provided therefor, out of rates, fees, rentals or other charges collected with respect to any of the projects of the district]. The district by resolution of the board of supervisors may also pledge as ~~{additional}~~ security for any [revenue] bonds the revenues from any project of the district, assessments, and any other sources of revenues or funds, or any combination of the foregoing, ~~{and may pledge or mortgage any of the properties, rights, interests or other assets of the district,}~~ and such pledge shall not require the submission to or approval by the qualified electors of the district unless required by the constitution of the state. ~~{The board of supervisors may also provide with respect to any bonds of the district that such bonds shall be payable, in whole or in part, as to principal amount or interest, or both, out of rates, fees, rentals or other charges collected with respect to any of the projects of the district.}~~

**SECTION 14. Amendment and Adoption.** Subsections (c) and (d) of Section 9-132 of the Code of Ordinances, Highlands County, Florida, are amended and adopted to provide as follows:

(c) The board of supervisors may declare that any assessment may be made payable in not more than ~~{forty (40)}~~ [thirty (30)] equal yearly installments, with interest on the unpaid balance thereof at a rate not to exceed ten (10) per cent per year, or, if bonds are to be issued hereunder to finance the cost of such project, at a rate not to exceed one (1) per cent above the rate of interest at which such bonds shall be sold, from the date of the acceptance of the project, to which, if not paid when due, there shall be added the penalty prescribed by such chapter. The board of supervisors may declare that any assessments may be made payable in not more than ~~{forty (40)}~~ [thirty (30)] equal yearly installments of the combined assessment and aggregate interest thereon or in not more than ~~{forty (40)}~~ [thirty (30)] equal yearly installments, with interest on the unpaid balance thereof, as the board of supervisors may determine to be in the best interest of the district.



(d) Bonds payable from such assessments shall be executed with the manual or facsimile signatures of the president and the secretary of the board of supervisors; shall bear interest as provided in section 215.84, Florida Statutes (1982), or as the same shall be hereafter amended, payable annually or semiannually; shall mature at such time or times not exceeding ~~{forty (40)}~~ [thirty (30)] years; and shall be sold in such manner and at such price as the board of supervisors may determine to be for the interest of the district; but no such sale may be made at a price of less than ninety (90) per cent of the par value of the bonds or at a net interest cost greater than that, permitted under said section 215.84 or as amended.

**SECTION 15. Amendment and Adoption.** Section 9-135 of the Code of Ordinances, Highlands County, Florida, is amended and adopted to provide as follows:

**Sec. 9-135. Authorization and form of bonds.**

Bonds may be authorized by resolution or resolutions of the board of supervisors which shall be adopted by a majority of all of the members thereof then in office. Such resolution or resolutions may be adopted at the same meeting at which they are introduced, and need not be published or posted. The board of supervisors may by resolution authorize the issuance of bonds, fix the aggregate amount of bonds to be issued, the purpose or purposes for which the moneys derived therefrom shall be expended, the rate or rates of interest, which shall not exceed the legal rate per annum, the denomination of the bonds, whether or not the bonds are to be issued in one or more series, the date or dates thereof, the date or dates of maturity, which shall not exceed ~~{forty (40)}~~ [thirty (30)] years from their respective dates of issuance, the medium of payment, the place or places within or without the state where payment shall be made, registration privileges, redemption terms and privileges (whether with or without premium), the manner of execution, the form of the bonds, including any interest coupons to be attached thereto, the manner of execution of bonds and coupons, and any and all other terms, covenants and conditions thereof, and the establishment of reserve or other funds. Such authorizing resolution may further provide that such bonds may be executed manually or by engraved, lithographed or facsimile signature, provided that where signatures are engraved, lithographed or facsimile no bond shall be valid unless countersigned by a registrar or other officer designated by appropriate resolution of the board of supervisors. The seal of the district may be affixed, lithographed, engraved or otherwise reproduced in facsimile on such bonds. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery.

**SECTION 16. Repeal.** Section 9-151 of the Code of Ordinances, Highlands County, Florida, is hereby repealed and shall henceforth be designated as "Reserved".

~~{Sec. 9-151. Ad valorem taxes = Authority to levy.~~

~~The board of supervisors shall have the power to levy and assess an ad valorem tax on all the taxable real and tangible personal property in the district to pay the principal of and interest on any general obligation bonds of the district, to provide for any sinking or other funds established in connection with any such bonds. The ad valorem tax provided for herein shall be in addition to county and all other ad valorem taxes provided for by law. Such tax shall be assessed, levied and collected in the same manner and same time as county taxes. }~~

**SECTION 17. Repeal.** Section 9-152 of the Code of Ordinances, Highlands County, Florida, is hereby repealed and shall henceforth be designated as "Reserved".

~~{Sec. 9-152. Same-Determining property value.~~

~~Ad valorem taxes of the district shall be based on the assessed valuation for county taxes of the real and personal property subject to such district ad valorem taxes. }~~

**SECTION 18. Amendment and Adoption.** Section 9-153 of the Code of Ordinances, Highlands County, Florida, is amended and adopted to provide as follows:

**Sec. 9-153. Maintenance {taxes} [assessments].**

(a) To maintain and preserve the improvements of the district ~~{a} maintenance {tax}~~ [assessments] may be levied by the board of supervisors and shall be ~~{evidenced to and}~~ certified by the board of supervisors not later than August thirty-first of each year ~~{to the county property appraiser and}~~ [and which] shall be collected by the ~~{tax collector in the same manner and time as county taxes and the proceeds therefrom paid to the district. The tax}~~ [district according to billing and collection procedures adopted by the board of supervisors. The assessment] shall be a lien until paid on the property against which assessed and enforceable in like manner as county taxes [or by utilizing the same or similar foreclosure procedures specified in Florida Statutes for foreclosure of municipal liens].

(b) Such maintenance ~~{tax}~~ [assessment] may be ~~{an ad valorem tax or}~~ assessed on a flat rate basis, calling for an equal assessment upon each lot or parcel assessed, as shall from time to time be determined by the board of supervisors, upon a finding by such board as to which basis, or combination thereof, shall be most equitable and fair under the circumstances and upon

consideration of the special benefits resulting from such maintenance and preservation of the improvements of the district or any part thereof.

**SECTION 19. Repeal.** Section 9-154 of the Code of Ordinances, Highlands County, Florida, is hereby repealed and shall henceforth be designated as "Reserved".

~~{Sec. 9-154. Collection; tax discounts:~~

~~(a) The levy by the board of supervisors of the taxes authorized by or referred to in sections 9-151 and 9-153 shall be by resolution of the board entered upon the minutes of the board. Certified copies of such resolution executed in the name of the board by its chairman, or such other officer as the board may designate, under its corporate seal, shall be made and delivered to the board of county commissioners not later than the fifteenth day of June of each year in which such taxes are levied. It shall be the duty of the county commissioners to order and require the county property appraiser to assess, and the duty of the county tax collector to collect, the amount of taxes so assessed or levied by the board of supervisors of the district upon the taxable property within the district not exempt by law, at the rate of taxation adopted by the board of supervisors of the district for such year, and to include in the warrant of the county property appraiser and attach to or show the same on the assessment roll of taxes for such year. The tax collector shall collect such taxes so levied by the board of supervisors of the district in the same manner as the other taxes are collected and shall pay the same over to the board of supervisors of the district within the time and in the manner prescribed by law for the payment by the tax collector of county taxes to the county depository. For the services rendered hereunder the county property appraiser and collector shall be compensated by the district as prescribed by law.~~

~~(b) The ad valorem taxes provided for herein shall be subject to the same discounts as county taxes. All ad valorem taxes remaining unpaid after the first day in April of the year following that for which such taxes are levied shall be and become delinquent and bear a penalty of ten (10) per cent per annum on the amount of such taxes from date of delinquency until paid.~~

**SECTION 20. Amendment and Adoption.** Section 9-155 of the Code of Ordinances, Highlands County, Florida, is amended and adopted to provide as follows:

**Sec. 9-155. ~~{Tax liens; service}~~ [Service] charge liens.**

All ~~{ad valorem taxes of the district and}~~ special assessments provided for herein, together with all penalties for default in payment of the same and all costs in collecting the same, including a reasonable attorney's fee fixed by the court and taxed as costs in the action brought to enforce payment, shall, from January first for each year the property is liable to assessment and until paid, constitute a lien of equal dignity with the liens for state and county taxes and other taxes of equal dignity with state and county taxes upon all the real and personal property against which such taxes shall be levied. A sale of any of the real property within the district for state and county or other taxes shall not operate to relieve or release the property so sold from the lien for subsequent district

~~{taxes}~~ [assessments], or installments of district ~~{taxes}~~ [assessments], which lien may be enforced against such property as though no such sale thereof had been made. The collection of these ~~{taxes}~~ [assessments] shall be carried out in the some manner as prescribed by the general law of the state for the collection of county and school taxes.

**SECTION 21. Severability.** The sections, subsections, paragraphs, sentences, clauses and phrases of this Ordinance are severable, and if any phrase, clause, sentence, paragraph, subsection or section of this Ordinance shall be declared invalid, unconstitutional or unenforceable by the valid judgment or decree of a court of competent jurisdiction, such invalidity, unconstitutionality or unenforceability shall not affect any of the remaining phrases, clauses, sentences, paragraphs, subsections, and sections of this Ordinance.

**SECTION 22. Inclusion in Code.** When the text of this Ordinance is published for inclusion in the Code of Ordinances, Highlands County, Florida, the text marked for deletion by strike-through text surrounded by {} shall be deleted and the additions appearing as bold text surrounded by [] shall be added so that the text of the Code shall be as amended rather than in the legislative format used in this Ordinance to highlight the changes being made.

**SECTION 23. Conflict.** Any ordinance or part thereof in conflict with this Ordinance or any part hereof is hereby repealed to the extent of the conflict.

**SECTION 24. Effective Date.** This Ordinance shall take effect immediately upon filing with the Department of State.

DONE AND ADOPTED this 26<sup>th</sup> day of November, 2002.

BOARD OF COUNTY COMMISSIONERS  
HIGHLANDS COUNTY, FLORIDA

(SEAL)

By: Edgar E. Stokes  
Edgar E. Stokes, Chairman

ATTEST: [Signature]  
L.E. "Luke" Brooker, Clerk

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ORDINANCE 02-03- 44

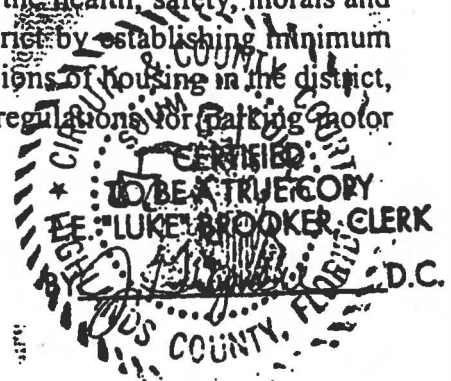
AN ORDINANCE AMENDING DIVISION 1 OF ARTICLE V OF CHAPTER 9 OF THE CODE OF ORDINANCES, HIGHLANDS COUNTY, FLORIDA, PERTAINING TO THE SUN 'N LAKE OF SEBRING IMPROVEMENT DISTRICT, BY ADDING THERETO A NEW SECTION 9-102; PROVIDING FOR MINIMUM MAINTENANCE STANDARDS, NUISANCE ABATEMENT, PARKING, AND KEEPING AND MAINTAINING ANIMALS; PROVIDING FOR PURPOSE; PROVIDING FOR DEFINITIONS; PROVIDING FOR APPLICABILITY; PROVIDING FOR VARIANCES; PROVIDING FOR CONFLICT OF LAW; PROVIDING FOR RIGHT OF ENTRY; PROVIDING FOR IMMUNITY FROM TRESPASS; PROVIDING FOR MINIMUM MAINTENANCE STANDARDS; PROVIDING FOR PARKING; PROVIDING FOR KEEPING AND MAINTAINING ANIMALS; PROVIDING FOR DISTRICT CODE ENFORCEMENT OFFICER; PROVIDING FOR SPECIAL MASTERS; PROVIDING FOR NOTICES; PROVIDING FOR ISSUANCE OF CIVIL CITATIONS; PROVIDING FOR ENFORCEMENT PROCEDURE; PROVIDING FOR HEARINGS; PROVIDING FOR PENALTIES; PROVIDING FOR APPEALS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICT; AND PROVIDING FOR AN EFFECTIVE DATE.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF HIGHLANDS COUNTY, FLORIDA, after due notice and public hearing, that:

**SECTION 1. Amendment and Adoption.** Division 1 of Article V of Chapter 9 of the Code of Ordinances, Highlands County, Florida, is amended by the addition of a new Section 9-102 which is adopted to read as follows:

**Section 9-102. Minimum Maintenance Standards, Nuisance Abatement, Parking, and Keeping and Maintaining Animals.**

(a) *Purpose.* The purpose of this section is to protect the health, safety, morals and welfare of the residents residing within the boundaries of the district by establishing minimum standards governing the maintenance of buildings and living conditions of housing in the district, providing for the abatement of public nuisances, and providing regulations for parking motor



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vehicles and vessels and for keeping and maintaining animals. Through such standards and regulations, the viable housing stock in the district shall be conserved and maintained to at least basic, adequate standards essential to make housing fit for occupancy and use. The basic viability of district neighborhoods shall be protected by minimizing blight and nuisance conditions. This section imposes certain responsibilities and duties upon owners and operators of property, authorizes inspections and hearings regarding the conditions on property and violations of this section, and provides for remedial measures. This section is hereby declared to be remedial and essential for the public interest and it is intended that this section be liberally construed to effectuate the purposes stated herein.

(b) *Definitions.* The following definitions shall apply for purposes of this section:

*Abandoned property* means wrecked or derelict property having no value other than nominal salvage value, if any, and which has been left abandoned and unprotected from the elements, and shall include inoperative or partially dismantled vehicles, vessels, machinery, white goods, plumbing fixtures, furniture and other similar articles.

*Building* means any structure built for the support, shelter, or enclosure of persons, animals, chattels, or property of any kind and any combination of materials to form a construction adapted to permanent or continuous occupancy for use for public, institutional, residence, business or storage purposes.

*District enforcement officer or officer* means any employee of the district designated by the board of supervisors pursuant to this section to enforce the provisions of this section.

*Dwelling* means any building which is wholly or partly used or intended to be used for living or sleeping by human occupants whether or not such building is occupied or vacant.

*Fowl* means any guineas, peafowls, pheasants, pigeons or poultry.

*Front yard* means a front yard is the space on a lot, extending the full width of the lot and situated between the street line and the front line of the main structure on the lot. However, where a lot is located at the intersection of two or more streets, the front yard shall, in addition, include the space on the lot extending the full width or length of the lot and situated between the street line and the side line of the main structure on the lot.

*Motor vehicle* means an automobile, motorcycle, scooter, moped, sports utility vehicle, truck, trailer, semitrailer, truck tractor and semitrailer combination, or any

other vehicle operated on the roads of this state, used to transport persons or property, and propelled by power other than muscular power.

*Multiple dwelling* means two or more dwelling units whose occupants are living independently of each other and doing their own cooking in the said building, and including flats and apartments.

*Occupant* means any person residing on the premises.

*Owner* means the holder of the title in fee simple and any person, group of persons, company, association or corporation in whose name tax bills on the property are submitted, and it shall also mean any person who, alone or jointly or severally with others:

- a. shall have legal title to any dwelling or dwelling unit, with or without accompanying actual possession thereof; or
- b. shall have charge, care or control of any dwelling or dwelling unit, as owner, executor, executrix, administrator, trustee, guardian of the estate of the owner, mortgagee or vendee in possession, or assignee of rents, lessee, or other person, firm or corporation in control of a building; or their duly authorized agents. Any such person thus representing the actual owner shall be bound to comply with the provisions of this section, and of rules and regulations adopted pursuant thereto, to the same extent as if he were the owner. It is his responsibility to notify the actual owner of the reported infractions of these regulations pertaining to the property which apply to the owner.

*Person* includes any individual, firm, corporation, association or partnership.

*Prepared surface* means the prepared surface shall consist of any portion of a yard modified to accommodate the parking of motor vehicles, whether concrete, asphalt, shell rock, mulch, or other surface material, and may not exceed 30% of the front yard under any circumstance.

*Recreational vehicle* means any recreational vehicle, auto camper, boat, boat trailer, camping trailer, horse or cattle trailer, house boat, motor home, mud buggy, swamp buggy, dune buggy, race car, truck camper, pickup coach or camper, utility trailer, and other related or similar equipment.

*Repeat violation* means a violation of a provision of subsection (h), (i) or (j) of this section by a person who has been previously found through a special master or any other quasi-judicial or judicial process, to have violated or who has admitted

violating the same provision within 5 years prior to the violation, notwithstanding the violations occur at different locations.

*Residential section* means a residential street within the district that has four or fewer vacant cleared lots between residential structures within a unit in which development is prevalent.

*Structure* means a combination of any materials, whether fixed or portable, forming a construction, including buildings.

*Underbrush growth* means grass, weeds, or native vegetation occurring on a lot.

*Unlicensed vessel or vehicle* means any vessel or vehicle which does not have a valid, current registration certificate in effect.

*Vacant cleared lot* means a lot that has previously been cleared of all or a substantial portion of the trees or other native vegetation on the lot.

*Vehicle* means a machine propelled by power other than human power, designed to travel by use of wheels, treads, wings, runners or slides and transport persons or property or pull machinery and shall include, without limitation, automobiles, trucks, trailers, motorcycles, tractors, buggies, wagons and airplanes.

*Yard* means an open space at grade between a building or structure and the adjoining lot lines unoccupied and unobstructed by any portion of a building or structure from the ground upward.

(c) *Applicability.* The provisions of this section shall apply to all properties within the geographical boundaries of the district.

(d) *Variances.* Where, by reason of unusual circumstances, the strict application of any provision of this section would result in undue economic hardship upon any owner a special master appointed pursuant to this section may vary or modify strict adherence to such provision so as to relieve the undue economic hardship, providing such variance does not distract from the general purpose and intent of this section. The granting of the variance must not create a conflict with any other law or ordinance.

(e) *Conflict of laws.* If any of the standards set out in this section impose a higher standard than set forth in any other applicable ordinance or state or federal laws then the standard as set forth herein shall prevail. If the provisions of this section impose a lower standard than any other applicable ordinance or state or federal law, then the higher standard contained in any such ordinance or law shall prevail.

(f) *Right of entry.* Subject to the requirements of applicable federal or state law, the code enforcement officer, upon presentation of proper identification to the owner, agent, or occupant in charge of such property, may enter any building, business, industrial premise, structure, dwelling, apartment, apartment house, or other premises regulated by this section within the district, during all reasonable hours to enforce this section, except that the above limitations shall not apply in cases of emergency where extreme hazards are known to exist which may involve the potential loss of life or severe property damage.

(g) *Immunity from trespass.* Any district code enforcement officer or any person authorized by a district code enforcement officer shall be immune from prosecution, civil or criminal, for reasonable good faith trespass upon real property while in the discharge of duties imposed by this section.

(h) *Minimum maintenance standards.* In addition to any other maintenance standards set forth in the Code of Ordinances of Highlands County, Florida, the following standards shall apply within the boundaries of the district. Any violation of the provisions of this subsection by an occupant or visitor shall be deemed to be a violation by both the occupant or visitor and the owner of the property on which the violation is located, except as may otherwise be specifically provided in this subsection.

- (1) *Structures.* No owner shall allow to remain on any property in the district any building or other structure which is in such a dilapidated condition that it is unfit for human habitation or kept in such an unsanitary condition that it is a menace to the health of people residing in the vicinity thereof and presents a more than ordinary danger of fire hazard in the vicinity where it is located. No owner or occupant of any property in the district shall allow to remain thereon any mailbox, fence, lighting device or retaining wall which is structurally unsound, deteriorating or in disrepair. No person shall erect, use or maintain, and no owner or occupant shall allow to remain, a tent on any property in the district for living quarters.
- (2) *Sanitation.* The unsanitary condition of any lot, parcel, building, or dwelling within the district represents a serious threat to the health, safety, and welfare of the district's inhabitants. Any such unsanitary condition is hereby prohibited. Every owner shall require every occupant of a dwelling or dwelling unit to keep in a clean and sanitary condition that part of the dwelling, dwelling unit and premises thereof which the occupant occupies or which is provided for the occupant's particular use. Every occupant of a dwelling or dwelling unit shall keep in a clean and sanitary condition that part of the dwelling, dwelling unit and premises thereof which the occupant occupies or which is provided for the occupant's particular use. No person shall create, and no owner occupant shall allow to remain, on any property in

the district any accumulation of trash, litter, debris, garbage, bottles, paper, cans, rags, dead or decayed fish, fowl, meat or other animal matter, fruit, vegetables, offal, bricks, concrete, scrap lumber or other building debris or other refuse of any nature.

- (c) *Garbage disposal.* Every owner shall require every occupant of a dwelling or dwelling unit to dispose of all garbage and any other organic waste which might provide food for rodents and all rubbish in a clean and sanitary manner by placing it in garbage cans, dumpsters, or garbage or rubbish storage containers. Every occupant of a dwelling or dwelling unit shall dispose of all garbage and any other organic waste which might provide food for rodents and all rubbish in a clean and sanitary manner by placing it in garbage cans, dumpsters, or garbage or rubbish storage containers. Because garbage attracts vermin and other disease-carrying animals, no person shall place any garbage container, other than multi-user dumpsters, in open public view for pickup earlier than twelve (12) hours prior to the designated pickup time. Garbage containers shall otherwise be kept in a secure and sanitary manner away from public view.

(4) *Unlicensed vessels and vehicles and abandoned property.*

- a. No person shall dump or cause to be dumped or place or cause to be placed, leave or permit to accumulate any grass, solid waste, white goods, inoperative and derelict vessels and vehicles or obnoxious material of any kind on any lands or premises, improved or unimproved, within the district, so that the same shall or may afford feed or harborage or tend to be a breeding place or haven for snakes, rats or vermin of all kinds and character or which tend to create a fire hazard endangering the lives and property of the citizens of the district or which shall or may injure or adversely affect the safety, health and welfare of the residents and citizens of the district.
- b. No person shall abandon any vessel or vehicle within the district nor shall they leave any partially dismantled, nonoperating, wrecked, junked or unlicensed vehicle on any street or highway within the district.
- c. No owner shall allow to remain on any property in the district any partially dismantled, nonoperating, wrecked, junked, discarded or unlicensed vessel or vehicle longer than 72 hours. No person shall leave any partially dismantled, nonoperating, wrecked, junked, discarded or unlicensed vessel or vehicle on any property within the district for longer than 72 hours. No owner shall allow to remain on



any property in the district any partially dismantled, nonoperating, wrecked, junked, discarded or unlicensed vessel or vehicle in excess of 72 hours after receiving a warning notice issued pursuant to this section.

- (5) *Underbrush growth.* The owner of a vacant cleared lot within a residential section of the district shall not allow undergrowth to grow higher than eighteen (18) inches in height. The owner and the occupant of a lot in the district with a structure located thereon shall not allow any weeds, such as broom grass, jimson, burdock, ragweed, sandspur or other similar weeds or any other vegetation, other than trees, ornamental bushes, flowers, or other ornamental plants to grow higher than eighteen (18) inches in height.
  - (6) *Swimming pools.* Owners or occupants of property with a swimming pool located thereon, shall not allow that swimming pool to be unwholesome or unsanitary, hold stagnant water, or be in such condition as to be susceptible to producing disease, mosquitoes, or other disease bearing insects or vermin, and if any such condition is found to exist, shall drain, fill, or chemically treat such water so as to provide sanitary conditions.
  - (7) *Visibility at intersections.* On a corner lot in any residential section, nothing shall be erected, placed, planted or allowed to grow in such a manner as to materially impede vision between a height of two (2) feet and ten (10) feet above the centerline grades of the intersecting streets in the area bounded by the street lines of such corner lots and a line joining points along such street lines, fifty (50) feet from the point of the intersection.
- (i) *Parking.*
- (1) *Motor vehicles/parking on lawns.* The seepage and accumulation of gasoline, diesel fuel, oil and other toxic fluids commonly used in motor vehicles can lead to contamination of groundwater, destruction of plant life, and represents a serious fire hazard. Accordingly, the following regulations of this paragraph (1) shall be effective and enforceable on and after July 1, 2004:
    - (a) No person shall park any operational motor vehicle in the front yard on any area except the prepared surface. No person shall park any vehicle either behind a structure or to the side of a structure behind the front building line except on a temporary basis. No owner or occupant shall allow to remain any operational motor vehicle in the front yard on any area except the prepared surface. No owner or occupant shall allow to remain any vehicle either behind a structure

or to the side of a structure behind the front building line except on a temporary basis.

- b. Social invitees may temporarily park motor vehicles on lawns not more than two (2) separate twenty-four (24) hour periods in any calendar month. Except as just provided, no person shall park any motor vehicle on the lawn of any residence.
- (2) *Tents and canopies.* No person shall keep, and no owner shall allow to be kept, any vehicle under any tent or canopy as a garage substitute.
  - (3) *Parking of commercial vehicles within the district.* A commercial vehicle of not over one ton rated capacity may be parked on a lot whose principal use is residential and where the commercial vehicle is used by a resident of the premises. A commercial vehicle of not over two tons rated capacity may be parked in an enclosed garage on a lot whose principal use is residential and where the commercial vehicle is used by a resident of the premises. Permitted nonresidential uses may utilize and park on their premises such commercial or other vehicles as may be necessary and customary for such uses, but this provisions shall not be construed to permit the parking of school buses used by public, private or parochial schools.
  - (4) *Storage and parking of recreational vehicles, travel trailers and camping trailers.* The parking and storage of recreational vehicles in the district shall be permitted subject to the following:
    - a. Recreational vehicles shall not be located in any front, side or rear yard except that one boat 18 feet or less in length and no more than six feet in average height and one utility trailer eight feet or less in length and no more than six feet in average height may be parked in a driveway not nearer than 7 ½ feet to any property line.
    - b. Recreational vehicles shall be parked or stored only on property which is occupied, either temporarily or permanently, by the vehicle owner. Recreational vehicles shall not be parked or stored on vacant residentially zoned property.
    - c. The recreational vehicle shall be stored and maintained in a condition which would allow for its safe and effective use.
    - d. Recreational vehicles may be parked in a driveway for a period of twenty-four (24) hours, but not to exceed three (3) times in any thirty (30) day period, for the purpose of loading and unloading the vehicle.

- e. Recreational vehicles which are used and licensed as the primary means of transportation for physically disabled may be parked or stored in a driveway of a residential lot so long as it is not nearer than 7 ½ feet to any side or rear lot line.
- f. Recreational vehicles shall be permitted to be parked in an enclosed structure such as a garage or carport.
- g. A recreational vehicle shall not be used for living, sleeping or business purposes. However, a recreational vehicle may be used, on a temporary basis, for sleeping and living purposes for a period not to exceed one week in any 30-day period where the owner or occupant of the vehicle is a guest of the owner or occupant of the property involved.
- h. Recreational vehicles shall not be connected to any utilities such as water, sewer, electric, phone, etc., except that a temporary connection for purposes of battery charging or repairs shall be permitted.
- i. Recreational vehicles shall not be used as an accessory structure or utility building.
- j. Recreational vehicles shall not be parked or stored on any right-of way.

(j) *Keeping and maintaining animals.* No person shall keep or maintain any hoofed animal, fowl or livestock regardless of number, or permit them to be on any lot or premises within the limits of the district.

(k) *District code enforcement officer.*

- (1) The board of supervisors of the district may, from time to time, appoint one or more code enforcement officers to be known as the district code enforcement officers, who shall be employees of the district.
- (2) The district code enforcement officers shall be the designated code enforcement officers for enforcement of violations of subsections (h), (i) and (j) of this section. County code enforcement officers shall enforce all other ordinances enacted by Highlands County which are applicable within the district boundaries but shall have no responsibility to enforce the additional regulatory provisions of this section.

- (3) No person shall oppose, obstruct or resist any district code enforcement officer or any person authorized by a district code enforcement officer in the discharge of his duties as provided in this section.

(1) *Special masters.*

- (1) *Appointment of special masters.* The board of supervisors of the district may, from time to time, appoint and retain one (1) or more special masters to conduct administrative hearings on appeals of citations issued by district code enforcement officers for violations of subsections (h), (i), and (j) of this section. Each of the special masters shall be an attorney licensed to practice in the state of Florida as a member of the Florida Bar who has practiced law in Florida for at least five (5) years, and who has experience in land use law, litigation, local governmental law or administrative law. None of the special masters, or the law firms with which they may be associated, shall represent clients before any agency of the county government or the district during the period in which they serve as special masters.
- (2) *Term, compensation.* Each special master shall serve at the pleasure of the board of supervisors of the district and shall be compensated at a rate or rates to be fixed by the board of supervisors of the district.
- (3) *Ex parte communication.* The rules and procedures regarding ex parte communication as set forth below shall apply to special masters, district employees, district elected officials, and every other person who is or may, as a result of a currently outstanding citation, become a party to a citation appeal before a special master pursuant to this section.
  - a. No district employee, district elected official, or other person who is or may, as a result of a currently outstanding citation, become a party to a citation appeal before a special master shall engage in an ex parte communication with the special master appointed pursuant to this section. However, the foregoing does not prohibit discussions between the special master and district staff that pertain solely to scheduling and other administrative matters unrelated to the merits of the appeal.
  - b. If a person engages in an ex parte communication with the special master, the special master shall place on the record of the pending case all ex parte written communications received, all written responses to such communications, a memorandum stating the substance of all oral communications received, and all oral responses made, and shall advise all parties that such matters have been placed

on the record. Any party desiring to rebut the ex parte communication shall be entitled to do so, but only if such party requests the opportunity for rebuttal within ten (10) days after notice of such communication. If he or she deems it necessary due to the effect of an ex parte communication received by him, the special master may withdraw from the case.

- c. Any person who makes an ex parte communication prohibited by subparagraph a of this paragraph (3) and any special master who fails to place in the record any such communication, as required by subparagraph b of this paragraph (3) shall be guilty of a civil infraction enforced pursuant to the provisions of Division 5 of Article VI of Chapter 2 of the Code of Ordinances, Highlands County, Florida, and shall be punishable as a Class IV Violation as provided in Sections 2-246 and 2-247 of the Code of Ordinances, Highlands County, Florida.
- (4) *Prohibited from acting as agent or attorney for subject matter.* A special master, and any firm with which he or she is or may become associated, is prohibited for a period of three (3) years after issuance of a decision regarding a citation appeal from acting as an agent or attorney on any matter involving the alleged violator who was the subject of the citation appeal in which the special master presided. Any person who violates this paragraph shall be guilty of a civil infraction enforced pursuant to the provisions of Division 5 of Article VI of Chapter 2 of the Code of Ordinances, Highlands County, Florida, and shall be punishable as a Class IV Violation as provided in Sections 2-246 and 2-247 of the Code of Ordinances, Highlands County, Florida..
- (5) *Powers.* The special master shall have the power to:
- a. Adopt rules for the conduct of hearings by the special master.
  - b. Subpoena alleged violators and witnesses and evidence to the hearings. Subpoenas may be served by the Highlands County Sheriff's Department.
  - c. Take testimony under oath.
  - d. Determine whether cited violations occurred.
  - e. Determine whether a reasonable time period for compliance was given.



- f. Assess and order the payment of civil penalties and administrative costs as provided in this section.
- g. Issue orders having the force of law to command whatever steps are necessary to bring a violation into compliance.
- h. Impose liens as provided in this section.

**(m) Notices.**

- (1) All notices required by this section shall be provided to the alleged violator by:
  - a. Certified mail, return receipt requested, provided if such notice is sent under this paragraph to the owner of the property in question at the address listed in the tax collector's office for tax notices, and at any other address provided to the district by such owner and is returned as unclaimed or refused, notice may be provided by posting as described in subparagraph b of paragraph (2) of this subsection and by first class mail directed to the addresses furnished to the district with a properly executed proof of mailing or affidavit confirming the first class mailing,
  - b. Hand delivery by the sheriff or other law enforcement officer, district code enforcement officer, or other person designated by the district general manager,
  - c. Leaving the notice at the violator's usual place of residence with any person residing therein who is above 15 years of age and informing such person of the contents of the notice, or
  - d. In the case of commercial premises, leaving the notice with the manager or other person in charge.
- (2) In addition to providing notice as set forth in paragraph (1) of this subsection (1), at the option of the district general manager, notice may also be served by publication or posting, as follows:
  - a. 1. Such notice shall be published once during each week for 4 consecutive weeks (four publications being sufficient) in a newspaper of general circulation in Highlands County, Florida. The newspaper shall meet such requirements as are prescribed under Chapter 50, Florida Statutes, for legal and official advertisements.

2. Proof of publication shall be made as provided in Sections 50.041 and 50.051, Florida Statutes.
- b.
  1. In lieu of publication as described in subparagraph a, such notice may be posted at least 10 days prior to the hearing, or prior to the expiration of any deadline contained in the notice, in at least three locations, one of which shall be the property upon which the violation is alleged to exist and one of which shall be at the front door of the Highlands County Courthouse and one of which shall be at the front door of the main office of the district.
  2. Proof of posting shall be by affidavit of the person posting the notice, which affidavit shall include a copy of the notice posted and the date and places of its posting.
- c. Notice by publication or posting may run concurrently with, or may follow, an attempt or attempts to provide notice by hand delivery or by mail as required under paragraph (1). Evidence that an attempt has been made to hand deliver or mail notice as provided in paragraph (1), together with proof of publication or posting as provided in paragraph (2), shall be sufficient to show that the notice requirements of this section have been met, without regard to whether or not the alleged violator actually received such notice.

(n) *Issuance of civil citations.*

- (1) Any district code enforcement officer is authorized to issue a citation to a person when, based upon personal investigation, the officer has reasonable cause to believe that the person has committed a civil infraction in violation of subsection (h), (i) or (j) of this section and that the special master will hear the charge.
- (2) Prior to issuing a citation, a district code enforcement officer shall provide a written warning notice of violation to the person that the person has committed a violation of subsection (h), (i) or (j) of this section and shall establish a reasonable time period within which the person must correct the violation. Such time period shall be no more than 30 days. If, upon personal investigation, a district code enforcement officer finds that the person has not corrected the violation within the time period, the district code enforcement officer may issue a citation to the person who has committed the violation. A district code enforcement officer does not have to provide the person with a reasonable time period to correct the violation prior to issuing a citation and may immediately issue a citation if a repeat violation is found or if the district

infraction. However, a citation must be issued to the alleged violator for each day an alleged violation continues to exist in order for a separate fine to be imposed.

- (7) The maximum civil penalty for each violation of subsection (h), (i) or (j) of this section shall not exceed five hundred dollars (\$500.00) per violation.
- (8) The civil penalty shall not exceed \$375.00 if the person who has committed the civil infraction does not contest the citation.
- (9) A citation enforced pursuant to this section must be issued by a district code enforcement officer who has reasonable cause to believe that the person has committed an act in violation of subsection (h), (i) or (j) of this section and that a special master appointed pursuant to this section will hear the charge.
- (10) A citation enforced pursuant to this section may be contested in a hearing held by a special master appointed pursuant to this section.

(o) *Enforcement procedure.*

- (1) If a person elects not to contest the citation, the person shall correct the violation and pay 75% of the applicable civil penalty set forth in this section to the district at the office of the district general manager within ten (10) days after issuance of the citation, exclusive of weekends and legal holidays. If a person cited elects to correct the violation and pay the applicable civil penalty set forth herein, the person shall be deemed to have admitted the infraction and waived the right to a hearing.
- (2) If a person elects to contest a citation issued pursuant to this section, the person shall, within ten (10) days after issuance of the citation, exclusive of weekends and legal holidays, the person shall make a request in writing for an administrative hearing before a special master appointed pursuant to this section to challenge the issuance of the citation. Such written request must be filed at the office of district general manager.
- (3) Failure by the alleged violator to challenge the issuance of a citation within ten (10) days after issuance of the citation, exclusive of weekends and legal holidays, shall constitute a waiver of the alleged violator's right to a hearing. The waiver of the alleged violator's right to a hearing shall be deemed an admission of the violation and the special master shall enter an order ordering the violator to pay the civil penalty set forth on the citation and a hearing shall not be necessary for the issuance of such order.

(p) *Hearings.*

- (1) Upon receipt of a timely filed written request for a hearing to contest the citation, the district general manager shall set the matter for hearing to be held within thirty (30) days after receipt of such request, and the district general manager shall cause a notice of hearing to be hand delivered or mailed to the alleged violator, as provided in subsection (m) of this section, which notice shall include, but not be limited to, the following:

  - a. Place, date and time of the hearing;
  - b. Right of alleged violator to be represented by an attorney;
  - c. Right of alleged violator to present witnesses and evidence and conduct cross examination;
  - d. A conspicuous statement consistent the requirements of Section 286, Florida Statutes, that a person deciding to appeal any decision of the special master will need to ensure that a verbatim record of the proceedings is made; and
  - e. A conspicuous statement consistent with the requirements of the Americans With Disabilities Act that a person with a disability needing a special accommodation to participate in the proceeding should contact the office of the district general manager, at a designated street address or telephone number not later than seven days prior to the proceeding and also that, if hearing impaired, contact may be made for (TDD) at 1-800-955-8771 and, if voice impaired, for (V) at 1-800-955-8770, via Florida Relay Services.
- (2) No hearing shall be scheduled on a date sooner than ten (10) days from the date of service of the citation on the alleged violator unless there is reason to believe that the alleged violation presents a serious threat to the public health, safety and welfare. All hearings shall be administratively scheduled by the district general manager.
- (3) If the person cited, or his or her designated representative, shows that the citation is invalid on its face or that the violation has been corrected prior to appearing before the special master, the special master may dismiss the citation unless the violation is irreparable or irreversible.
- (4) All hearings shall be open to the public. All testimony shall be under oath, and the proceedings shall be recorded by the district. Minutes shall be kept of all hearings by the special master.

- (5) Each case before the special master shall be presented by the district code enforcement officer or his designee.
- (6) Formal rules of evidence shall not apply, but fundamental principles of due process shall be observed and govern the proceedings. All evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs shall be admissible whether or not such evidence would be admissible in a state of Florida court.
- (7) Each party shall have the right to call and examine witnesses, to introduce exhibits, and to cross examine opposing witnesses on any relevant matter, as determined by the special master.
- (8) Provided that proper notice of the hearing has been served upon the owner of the place or premises, such hearing may proceed in the absence of the owner.
- (9) If the district prevails in the hearing before the special master, the special master may order the violator to pay to the district all reasonable costs incurred by the district in the case before the special master.
- (10) In order to make a finding affirming the district code enforcement officer's decision to issue the citation, the special master must find by a preponderance of the evidence that the alleged violator was responsible for the violation of the relevant code provision as cited. Within thirty (30) days after the conclusion of the hearing, the special master shall issue a written decision including findings of fact, based on evidence of record, conclusions of law, and an order consistent with the powers granted by this section. The order shall include the amount of the civil penalty imposed which shall not exceed the maximum civil penalty for that offense determined pursuant to subsection (q) of this section and costs awarded to the district. In determining the amount of the civil penalty, the special master shall consider the gravity of the violation, any actions taken by the violator to correct the violation and any previous violations committed by the violator. A certified copy of that order may be recorded in the public records of Highlands County, Florida, and shall constitute notice to any subsequent purchasers, successors in interest, or assigns if the violation concerns real property, and the findings therein shall be binding upon the violator and, if the violation concerns real property, any subsequent purchasers, successors in interest, or assigns. If an order is recorded in the public records pursuant to this subsection and the order is complied with by the date specified in the order, the special master shall issue an order acknowledging compliance that shall be recorded in the public records. A hearing is not required to issue such an order acknowledging compliance.



- (11) Upon written notification by the district code enforcement officer that an alleged violator has not contested the citation or paid the civil penalty within the time frame allowed on the citation, or if a violation has not been corrected within the time frame set forth by the special master, the special master shall enter an order ordering the violator to pay the civil penalty set forth on the citation and a hearing shall not be necessary for the issuance of such order.
- (12) No lien created pursuant to the provisions of this section may be foreclosed on real property which is a homestead under Section 4, Article X of the Constitution of the State of Florida. The civil penalty provisions of this section shall not attach to real property or personal property which is covered under Section 4(a), Article X of the Constitution of the State of Florida.

(q) ***Penalties.***

- (1) The following civil penalties shall be assessed for violation subsections (h), (i), and (j) of this section:

1 <sup>st</sup> Offense After Warning	2 <sup>nd</sup> Offense After Warning	3 <sup>rd</sup> Offense After Warning	4 <sup>th</sup> or more Offense After Warning
\$50.00	\$100.00	\$250.00	\$500.00

- (2) The district shall provide for the appropriate guidelines and procedures for the administration, collection, record keeping, reporting, and accountability of penalties assessed under this section.
- (3) The district may institute proceedings in a court of competent jurisdiction to compel payment of civil penalties.
- (4) The revenue received by the district from the payment of civil penalties pursuant to this section, less any costs of collection, shall belong to the district and may be used by the district to offset costs associated with district code enforcement functions and for such other purposes as the board of supervisors of the district deems appropriate.

(r) ***Appeals.*** An aggrieved party, including the district, may appeal a final administrative order of a special master to the circuit court. Such an appeal shall not be a hearing de novo but shall be limited to appellate review of the record created before the special master. An appeal shall be filed within 30 days of the execution of the order to be appealed.

**SECTION 2. Severability.** The sections, subsections, paragraphs, sentences, clauses and phrases of this Ordinance are severable, and if any phrase, clause, sentence, paragraph, subsection or section

of this Ordinance shall be declared invalid, unconstitutional or unenforceable by the valid judgment or decree of a court of competent jurisdiction, such invalidity, unconstitutionality or unenforceability shall not affect any of the remaining phrases, clauses, sentences, paragraphs, subsections, and sections of this Ordinance.

**SECTION 3. Conflict.** Any ordinance or part thereof in conflict with this Ordinance or any part hereof is hereby repealed to the extent of the conflict.

**SECTION 4. Effective Date.** This Ordinance shall take effect immediately upon filing with the Department of State.

DONE AND ADOPTED this 22<sup>nd</sup> day of July, 2003.



BOARD OF COUNTY COMMISSIONERS  
HIGHLANDS COUNTY, FLORIDA

(SEAL)

By: Edgar E. Stokes  
Edgar E. Stokes, Chairman

ATTEST:

L.E. "Luke" Brooker  
L.E. "Luke" Brooker, Clerk

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EFFECTIVE DATE: \_\_\_\_\_

ORDINANCE NO. 03-04-26

AN ORDINANCE AMENDING ARTICLE V OF CHAPTER 9 OF THE CODE OF ORDINANCES, HIGHLANDS COUNTY, FLORIDA, PERTAINING TO SUN 'N LAKE OF SEBRING IMPROVEMENT DISTRICT; AMENDING SUBSECTION (d) OF SECTION 9-132 TO PROVIDE FOR THE RESCHEDULING OF ASSESSMENTS OVER A PERIOD NOT TO EXCEED THIRTY YEARS TO AVOID OR REMEDY DEFAULT OR SUBSTANTIAL NON-PERFORMANCE; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICT; PROVIDING FOR INCLUSION IN CODE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, pursuant to Article VIII, Section 1 of the Constitution of the State of Florida and Sections 125.01 and 125.66, Florida Statutes, the County, acting by and through the Board of County Commissioners, has all powers of local self-government to perform county functions and to render public services in a manner not inconsistent with general or special law and such power may be exercised by the enactment of county ordinances; and

WHEREAS, in order to provide for orderly growth and economic progress and assure the future welfare and continued prosperity of the County and its citizens, including those who reside in the Sun 'n Lake of Sebring Improvement District (hereinafter referred to as the "District") and others who own property within the District, and to protect the environment, increase the County's tax base, and avoid unnecessary governmental expense in the future, on April 16, 1974 the Board created the District by enactment Highlands County Ordinance No. 74-4 (hereinafter referred to as the "District Charter"); and the Board of County Commissioners has subsequently amended the District Charter in response to changing circumstances and for the best interest of the County and its citizens; and

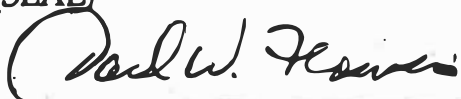
WHEREAS, the District has requested that the Board of County Commissioners further amend the District Charter in the manner hereinafter provided, and it is in the best interest of the public health, safety, economy, and general welfare of the County and its citizens, including those who reside in the District and others who own property within the District, that the District Charter be amended in the manner hereinafter provided.

appearing as bold text surrounded by [] shall be added so that the text of the Code shall be as amended rather than in the legislative format used in this Ordinance to highlight the changes being made.

**SECTION 5. Effective Date.** This Ordinance shall take effect immediately upon filing with the Department of State.

**DONE AND ADOPTED** this 13<sup>th</sup> day of July, 2004.

BOARD OF COUNTY COMMISSIONERS OF HIGHLANDS COUNTY,  
FLORIDA  
(SEAL)



David W. Flowers, Chairman

ATTEST:

By:   
L.E. "Luke" Brooker, Clerk



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**Select Year:** 2004

**Go**

## The 2004 Florida Statutes

### **CHAPTER 189**

#### **SPECIAL DISTRICTS: GENERAL PROVISIONS**

**189.401** Short title.

**189.402** Statement of legislative purpose and intent.

**189.403** Definitions.

**189.4031** Special districts; creation, dissolution, and reporting requirements; charter requirements.

**189.4035** Preparation of official list of special districts.

**189.404** Legislative intent for the creation of independent special districts; special act prohibitions; model elements and other requirements; general-purpose local government/Governor and Cabinet creation authorizations.

**189.4041** Dependent special districts.

**189.4042** Merger and dissolution procedures.

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- 189.4156 Water management district technical assistance; local government comprehensive planning.
- 189.416 Designation of registered office and agent.
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- 189.437 Budgets.
- 189.438 Powers and duties.
- 189.439 Bonds.
- 189.440 Tax exemption.
- 189.441 Contracts.
- 189.442 Sale or lease of property.
- 189.443 Damages arising out of tort.

**189.444 Dissolution.**

**189.401 Short title.**--This chapter may be cited as the "Uniform Special District Accountability Act of 1989."

**History.**--s. 1, ch. 89-169.

**189.402 Statement of legislative purpose and intent.**--

(1) It is the intent of the Legislature through the adoption of this chapter to provide general provisions for the definition, creation, and operation of special districts. It is the specific intent of the Legislature that dependent special districts shall be created at the prerogative of the counties and municipalities and that independent special districts shall only be created by legislative authorization as provided herein.

(2) It is the intent of the Legislature through the adoption of this chapter to have one centralized location for all legislation governing special districts and to:

- (a) Improve the enforcement of statutes currently in place that help ensure the accountability of special districts to state and local governments.
- (b) Improve communication and coordination between state agencies with respect to required special district reporting and state monitoring.
- (c) Improve communication and coordination between special districts and other local entities with respect to ad valorem taxation, non-ad valorem assessment collection, special district elections, and local government comprehensive planning.
- (d) Move toward greater uniformity in special district elections and non-ad valorem assessment collection procedures at the local level without hampering the efficiency and effectiveness of the current procedures.
- (e) Clarify special district definitions and creation methods in order to ensure consistent application of those definitions and creation methods across all levels of government.
- (f) Specify in general law the essential components of any new type of special district.
- (g) Specify in general law the essential components of a charter for a new special district.
- (h) Encourage the creation of municipal service taxing units and municipal service benefit units for providing municipal services in unincorporated areas of each county.

**(3) The Legislature finds that:**

(a) There is a need for uniform, focused, and fair procedures in state law to provide a reasonable alternative for the establishment, powers, operation, and duration of independent special districts to manage and finance basic capital infrastructure, facilities, and services; and that, based upon a proper and fair determination of applicable facts, an independent special district can constitute a timely, efficient, effective, responsive, and economic way to deliver these basic services, thereby providing a means of solving the state's planning, management, and financing needs for delivery of capital infrastructure, facilities, and services in order to provide for projected growth without overburdening other governments and their taxpayers.

(b) It is in the public interest that any independent special district created pursuant to state law not outlive its usefulness and that the operation of such a district and the exercise by the district

of its powers be consistent with applicable due process, disclosure, accountability, ethics, and government-in-the-sunshine requirements which apply both to governmental entities and to their elected and appointed officials.

(c) It is in the public interest that long-range planning, management, and financing and long-term maintenance, upkeep, and operation of basic services by independent special districts be uniform.

(4) It is the policy of this state:

(a) That independent special districts are a legitimate alternative method available for use by the private and public sectors, as authorized by state law, to manage, own, operate, construct, and finance basic capital infrastructure, facilities, and services.

(b) That the exercise by any independent special district of its powers, as set forth by uniform general law comply with all applicable governmental comprehensive planning laws, rules, and regulations.

(5) It is the legislative intent and purpose, based upon, and consistent with, its findings of fact and declarations of policy, to authorize a uniform procedure by general law to create an independent special district as an alternative method to manage and finance basic capital infrastructure, facilities, and services. It is further the legislative intent and purpose to provide by general law for the uniform operation, exercise of power, and procedure for termination of any such independent special district.

(6) The Legislature finds that special districts serve a necessary and useful function by providing services to residents and property in the state. The Legislature finds further that special districts operate to serve a public purpose and that this is best secured by certain minimum standards of accountability designed to inform the public and appropriate general-purpose local governments of the status and activities of special districts. It is the intent of the Legislature that this public trust be secured by requiring each independent special district in the state to register and report its financial and other activities. The Legislature further finds that failure of an independent special district to comply with the minimum disclosure requirements set forth in this chapter may result in action against officers of such district board.

(7) Realizing that special districts are created to serve special purposes, the Legislature intends through the adoption of this chapter that special districts cooperate and coordinate their activities with the units of general-purpose local government in which they are located. The reporting requirements set forth in this chapter shall be the minimum level of cooperation necessary to provide services to the citizens of this state in an efficient and equitable fashion.

(8) The Legislature finds and declares that:

(a) Growth and development issues transcend the boundaries and responsibilities of individual units of government, and often no single unit of government can plan or implement policies to deal with these issues without affecting other units of government.

(b) The provision of capital infrastructure, facilities, and services for the preservation and enhancement of the quality of life of the people of this state may require the creation of multicounty and multijurisdictional districts.

History.--s. 2, ch. 89-169.

**189.403 Definitions.**--As used in this chapter, the term:

(1) "Special district" means a local unit of special purpose, as opposed to general-purpose,

government within a limited boundary, created by general law, special act, local ordinance, or by rule of the Governor and Cabinet. The special purpose or purposes of special districts are implemented by specialized functions and related prescribed powers. For the purpose of s. 196.199 (1), special districts shall be treated as municipalities. The term does not include a school district, a community college district, a special improvement district created pursuant to s. 285.17, a municipal service taxing or benefit unit as specified in s. 125.01, or a board which provides electrical service and which is a political subdivision of a municipality or is part of a municipality.

(2) "Dependent special district" means a special district that meets at least one of the following criteria:

(a) The membership of its governing body is identical to that of the governing body of a single county or a single municipality.

(b) All members of its governing body are appointed by the governing body of a single county or a single municipality.

(c) During their unexpired terms, members of the special district's governing body are subject to removal at will by the governing body of a single county or a single municipality.

(d) The district has a budget that requires approval through an affirmative vote or can be vetoed by the governing body of a single county or a single municipality.

This subsection is for purposes of definition only. Nothing in this subsection confers additional authority upon local governments not otherwise authorized by the provisions of the special acts or general acts of local application creating each special district, as amended.

(3) "Independent special district" means a special district that is not a dependent special district as defined in subsection (2). A district that includes more than one county is an independent special district unless the district lies wholly within the boundaries of a single municipality.

(4) "Department" means the Department of Community Affairs.

(5) "Local governing authority" means the governing body of a unit of local general-purpose government. However, if the special district is a political subdivision of a municipality, "local governing authority" means the municipality.

(6) "Water management district" for purposes of this chapter means a special taxing district which is a regional water management district created and operated pursuant to chapter 373 or chapter 61-691, Laws of Florida, or a flood control district created and operated pursuant to chapter 25270, Laws of Florida, 1949, as modified by s. 373.149.

(7) "Public facilities" means major capital improvements, including, but not limited to, transportation facilities, sanitary sewer facilities, solid waste facilities, water management and control facilities, potable water facilities, alternative water systems, educational facilities, parks and recreational facilities, health systems and facilities, and, except for spoil disposal by those ports listed in s. 311.09(1), spoil disposal sites for maintenance dredging in waters of the state.

History.--s. 3, ch. 89-169; s. 1, ch. 92-314; s. 4, ch. 97-255.

**189.4031 Special districts; creation, dissolution, and reporting requirements; charter requirements.--**

(1) All special districts, regardless of the existence of other, more specific provisions of applicable law, shall comply with the creation, dissolution, and reporting requirements set forth in this

chapter.

(2) Notwithstanding any general law, special act, or ordinance of a local government to the contrary, any independent special district charter enacted after the effective date of this section shall contain the information required by s. 189.404(3). Recognizing that the exclusive charter for a community development district is the statutory charter contained in ss. 190.006-190.041, community development districts established after July 1, 1980, pursuant to the provisions of chapter 190 shall be deemed in compliance with this requirement.

History.--s. 4, ch. 89-169; s. 5, ch. 97-255; s. 30, ch. 99-378.

**189.4035 Preparation of official list of special districts.--**

(1) The Department of Community Affairs shall compile the official list of special districts. The official list of special districts shall include all special districts in this state and shall indicate the independent or dependent status of each district. All special districts in the list shall be sorted by county. The definitions in s. 189.403 shall be the criteria for determination of the independent or dependent status of each special district on the official list. The status of community development districts shall be independent on the official list of special districts.

(2) The official list shall be produced by the department after the department has notified each special district that is currently reporting to the department, the Department of Financial Services pursuant to s. 218.32, or the Auditor General pursuant to s. 218.39. Upon notification, each special district shall submit, within 60 days, its determination of its status. The determination submitted by a special district shall be consistent with the status reported in the most recent local government audit of district activities submitted to the Auditor General pursuant to s. 218.39.

(3) The Department of Financial Services shall provide the department with a list of dependent special districts reporting pursuant to s. 218.32 for inclusion on the official list of special districts.

(4) If a special district does not submit its status to the department within the required time period, then the department shall have the authority to determine the status of said district. After such determination of status is completed, the department shall render the determination to an agent of the special district.

(5) The official list of special districts shall be distributed by the department on October 1 of each year to the President of the Senate, the Speaker of the House of Representatives, the Auditor General, the Department of Revenue, the Department of Financial Services, the Department of Management Services, the State Board of Administration, counties, municipalities, county property appraisers, tax collectors, and supervisors of elections and to all interested parties who request the list.

(6) Preparation of the official list of special districts or the determination of status does not constitute final agency action pursuant to chapter 120. If the status of a special district on the official list is inconsistent with the status submitted by the district, the district may request the department to issue a declaratory statement setting forth the requirements necessary to resolve the inconsistency. If necessary, upon issuance of a declaratory statement by the department which is not appealed pursuant to chapter 120, the governing board of any special district receiving such a declaratory statement shall apply to the entity which originally established the district for an amendment to its charter correcting the specified defects in its original charter. This amendment shall be for the sole purpose of resolving inconsistencies between a district charter and the status of a district as it appears on the official list. Such application shall occur as follows:

(a) In the event a special district was created by a local general-purpose government or state agency and applies for an amendment to its charter to confirm its independence, said application shall be granted as a matter of right. If application by an independent district is not made within 6



months of rendition of a declaratory statement, the district shall be deemed dependent and become a political subdivision of the governing body which originally established it by operation of law.

(b) If the Legislature created a special district, the district shall request, by resolution, an amendment to its charter by the Legislature. Failure to apply to the Legislature for an amendment to its charter during the next regular legislative session following rendition of a declaratory statement or failure of the Legislature to pass a special act shall render the district dependent.

**History.**--s. 5, ch. 89-169; s. 78, ch. 92-279; s. 55, ch. 92-326; s. 9, ch. 96-324; s. 44, ch. 2001-266; s. 167, ch. 2003-261.

**189.404 Legislative intent for the creation of independent special districts; special act prohibitions; model elements and other requirements; general-purpose local government/Governor and Cabinet creation authorizations.**--

(1) **LEGISLATIVE INTENT.**--It is the intent of the Legislature that, after September 30, 1989, at a minimum, the requirements of subsection (3) must be satisfied when an independent special district is created.

(2) **SPECIAL ACTS PROHIBITED.**--Pursuant to s. 11(a)(21), Art. III of the State Constitution, the Legislature hereby prohibits special laws or general laws of local application which:

(a) Create independent special districts that do not, at a minimum, conform to the minimum requirements in subsection (3);

(b) Exempt independent special district elections from the appropriate requirements in s. 189.405;

(c) Exempt an independent special district from the requirements for bond referenda in s. 189.408;

(d) Exempt an independent special district from the reporting, notice, or public meetings requirements of s. 189.4085, s. 189.415, s. 189.417, or s. 189.418;

(e) Create an independent special district for which a statement has not been submitted to the Legislature that documents the following:

1. The purpose of the proposed district;

2. The authority of the proposed district;

3. An explanation of why the district is the best alternative; and

4. A resolution or official statement of the governing body or an appropriate administrator of the local jurisdiction within which the proposed district is located stating that the creation of the proposed district is consistent with the approved local government plans of the local governing body and that the local government has no objection to the creation of the proposed district.

(3) **MINIMUM REQUIREMENTS.**--General laws or special acts that create or authorize the creation of independent special districts and are enacted after September 30, 1989, must address and require the following in their charters:

(a) The purpose of the district.

(b) The powers, functions, and duties of the district regarding ad valorem taxation, bond issuance,

other revenue-raising capabilities, budget preparation and approval, liens and foreclosure of liens, use of tax deeds and tax certificates as appropriate for non-ad valorem assessments, and contractual agreements.

(c) The methods for establishing the district.

(d) The method for amending the charter of the district.

(e) The membership and organization of the governing board of the district. If a district created after September 30, 1989, uses a one-acre/one-vote election principle, it shall provide for a governing board consisting of five members. Three members shall constitute a quorum.

(f) The maximum compensation of a governing board member.

(g) The administrative duties of the governing board of the district.

(h) The applicable financial disclosure, noticing, and reporting requirements.

(i) If a district has authority to issue bonds, the procedures and requirements for issuing bonds.

(j) The procedures for conducting any district elections or referenda required and the qualifications of an elector of the district.

(k) The methods for financing the district.

(l) If an independent special district has the authority to levy ad valorem taxes, other than taxes levied for the payment of bonds and taxes levied for periods not longer than 2 years when authorized by vote of the electors of the district, the millage rate that is authorized.

(m) The method or methods for collecting non-ad valorem assessments, fees, or service charges.

(n) Planning requirements.

(o) Geographic boundary limitations.

(4) LOCAL GOVERNMENT/GOVERNOR AND CABINET CREATION AUTHORIZATIONS.--Except as otherwise authorized by general law, only the Legislature may create independent special districts.

(a) A municipality may create an independent special district which shall be established by ordinance in accordance with s. 190.005, or as otherwise authorized in general law.

(b) A county may create an independent special district which shall be adopted by a charter in accordance with s. 125.901 or s. 154.331 or chapter 155, or which shall be established by ordinance in accordance with s. 190.005, or as otherwise authorized by general law.

(c) The Governor and Cabinet may create an independent special district which shall be established by rule in accordance with s. 190.005 or as otherwise authorized in general law. The Governor and Cabinet may also approve the establishment of a charter for the creation of an independent special district which shall be in accordance with s. 373.1962, or as otherwise authorized in general law.

(d)1. Any combination of two or more counties may create a regional special district which shall be established in accordance with s. 950.001, or as otherwise authorized in general law.

2. Any combination of two or more counties or municipalities may create a regional special district which shall be established in accordance with s. 373.1962, or as otherwise authorized by general law.

3. Any combination of two or more counties, municipalities, or other political subdivisions may create a regional special district in accordance with s. 163.567, or as otherwise authorized in general law.

(5) STATUS STATEMENT.--After October 1, 1997, the charter of any newly created special district shall contain and, as practical, the charter of a preexisting special district shall be amended to contain, a reference to the status of the special district as dependent or independent. When necessary, the status statement shall be amended to conform with the department's determination or declaratory statement regarding the status of the district.

History.--s. 6, ch. 89-169; s. 106, ch. 90-136; s. 6, ch. 97-255.

#### **189.4041 Dependent special districts.--**

(1) A charter for the creation of a dependent special district created after September 30, 1989, shall be adopted only by ordinance of a county or municipal governing body having jurisdiction over the area affected.

(2) A county is authorized to create dependent special districts within the boundary lines of the county, subject to the approval of the governing body of the incorporated area affected.

(3) A municipality is authorized to create dependent special districts within the boundary lines of the municipality.

(4) Dependent special districts created by a county or municipality shall be created by adoption of an ordinance that includes:

(a) The purpose, powers, functions, and duties of the district.

(b) The geographic boundary limitations of the district.

(c) The authority of the district.

(d) An explanation of why the district is the best alternative.

(e) The membership, organization, compensation, and administrative duties of the governing board.

(f) The applicable financial disclosure, noticing, and reporting requirements.

(g) The methods for financing the district.

(h) A declaration that the creation of the district is consistent with the approved local government comprehensive plans.

History.--s. 7, ch. 89-169; s. 7, ch. 97-255.

#### **189.4042 Merger and dissolution procedures.--**

(1)(a) The merger or dissolution of dependent special districts may be effectuated by an ordinance

of the general-purpose local governmental entity wherein the geographical area of the district or districts is located. However, a county may not dissolve a special district that is dependent to a municipality or vice versa, or a dependent district created by special act.

(b) A copy of any ordinance and of any changes to a charter affecting the status or boundaries of one or more special districts shall be filed with the Special District Information Program within 30 days of such activity.

(2) The merger or dissolution of an independent special district or a dependent district created and operating pursuant to a special act may only be effectuated by the Legislature unless otherwise provided by general law. If an inactive independent district was created by a county or municipality through a referendum, the county or municipality that created the district may dissolve the district after publishing notice as described in s. 189.4044. If an independent district was created by a county or municipality by referendum or any other procedure, the county or municipality that created the district may merge or dissolve the district pursuant to the same procedure by which the independent district was created. However, for any independent district that has ad valorem taxation powers, the same procedure required to grant such independent district ad valorem taxation powers shall also be required to dissolve or merge the district.

(3) The provisions of this section shall not apply to community development districts implemented pursuant to chapter 190 or to water management districts created and operated pursuant to chapter 373.

**History.**--s. 8, ch. 89-169; s. 8, ch. 97-255; s. 1, ch. 98-320; s. 142, ch. 2001-266.

**189.4044 Special procedures for inactive districts.--**

(1) The department shall declare inactive any special district in this state by documenting that:

(a) The special district meets one of the following criteria:

1. The registered agent of the district, the chair of the governing body of the district, or the governing body of the appropriate local general-purpose government notifies the department in writing that the district has taken no action for 2 or more years;
2. Following an inquiry from the department, the registered agent of the district, the chair of the governing body of the district, or the governing body of the appropriate local general-purpose government notifies the department in writing that the district has not had a governing board or a sufficient number of governing board members to constitute a quorum for 2 or more years or the registered agent of the district, the chair of the governing body of the district, or the governing body of the appropriate local general-purpose government fails to respond to the department's inquiry within 21 days; or
3. The department determines, pursuant to s. 189.421, that the district has failed to file any of the reports listed in s. 189.419.

(b) The department, special district, or local general-purpose government published a notice of proposed declaration of inactive status in a newspaper of general circulation in the county or municipality in which the territory of the special district is located and sent a copy of such notice by certified mail to the registered agent or chair of the board, if any. Such notice must include the name of the special district, the law under which it was organized and operating, a general description of the territory included in the special district, and a statement that any objections must be filed pursuant to chapter 120 within 21 days after the publication date; and

(c) Twenty-one days have elapsed from the publication date of the notice of proposed declaration of inactive status and no administrative appeals were filed.

(2) If any special district is declared inactive pursuant to this section, the property or assets of the special district are subject to legal process for payment of any debts of the district. After the payment of all the debts of said inactive special district, the remainder of its property or assets shall escheat to the county or municipality wherein located. If, however, it shall be necessary, in order to pay any such debt, to levy any tax or taxes on the property in the territory or limits of the inactive special district, the same may be assessed and levied by order of the local general-purpose government wherein the same is situated and shall be assessed by the county property appraiser and collected by the county tax collector.

(3) In the case of a district created by special act of the Legislature, the department shall send a notice of declaration of inactive status to the Speaker of the House of Representatives and the President of the Senate. The notice of declaration of inactive status shall reference each known special act creating or amending the charter of any special district declared to be inactive under this section. The declaration of inactive status shall be sufficient notice as required by s. 10, Art. III of the State Constitution to authorize the Legislature to repeal any special laws so reported. In the case of a district created by one or more local general-purpose governments, the department shall send a notice of declaration of inactive status to the chair of the governing body of each local general-purpose government that created the district. In the case of a district created by interlocal agreement, the department shall send a notice of declaration of inactive status to the chair of the governing body of each local general-purpose government which entered into the interlocal agreement.

(4) The entity that created a special district declared inactive under this section must dissolve the special district by repealing its enabling laws or by other appropriate means.

**History.**--s. 10, ch. 89-169; s. 10, ch. 97-255; s. 143, ch. 2001-266; s. 17, ch. 2004-305.

#### **189.4045 Financial allocations.--**

(1) The government formed by merger of existing special districts shall assume all indebtedness of, and receive title to all property owned by, the preexisting special districts. The proposed charter shall provide for the determination of the proper allocation of the indebtedness so assumed and the manner in which said debt shall be retired.

(2) Unless otherwise provided by law or ordinance, the dissolution of a special district government shall transfer the title to all property owned by the preexisting special district government to the local general-purpose government, which shall also assume all indebtedness of the preexisting special district.

(3) The provisions of this section shall not apply to community development districts established pursuant to chapter 190 or to water management districts created and operated pursuant to chapter 373.

**History.**--s. 11, ch. 89-169; s. 11, ch. 97-255.

**189.4047 Refund of certain special assessments.--**If a dependent special district has levied assessments for an improvement or specialized function for which it was created; no bonds have been issued against which the special assessments are pledged; and the county or municipality which created the special district determines that the demand for the improvement or function no longer exists or the majority of the land against which the special assessments were authorized has been purchased by a tax exempt governmental agency to be preserved for environmental purposes and which cannot receive the benefit for which the assessments were levied, unspent and unobligated moneys collected as assessments, along with any interest collected thereon, shall be refunded to the original payors of the assessments when the costs of distributing the refund do not exceed the amount available for refund. This section shall operate retroactively to January 1, 1987.



History.--s. 12, ch. 97-255.

**189.405 Elections; general requirements and procedures; education programs.--**

(1) If a dependent special district has an elected governing board, elections shall be conducted by the supervisor of elections of the county wherein the district is located in accordance with the Florida Election Code, chapters 97-106.

(2)(a) Any independent special district located entirely in a single county may provide for the conduct of district elections by the supervisor of elections for that county. Any independent special district that conducts its elections through the office of the supervisor shall make election procedures consistent with the Florida Election Code.

(b) Any independent special district not conducting district elections through the supervisor of elections shall report to the supervisor in a timely manner the purpose, date, authorization, procedures, and results of each election conducted by the district.

(c) A candidate for a position on a governing board of a single-county special district that has its elections conducted by the supervisor of elections shall qualify for the office with the county supervisor of elections in whose jurisdiction the district is located. Elections for governing board members elected by registered electors shall be nonpartisan, except when partisan elections are specified by a district's charter. Candidates shall qualify by paying a filing fee equal to 3 percent of the salary or honorarium paid for the office, or a filing fee of \$25, whichever is more. Alternatively, candidates may qualify by submitting a petition that contains the signatures of at least 3 percent of the district's registered electors, or any lesser amount of signatures directed by chapter 99, chapter 582, or other general or special law. No election or party assessment shall be levied if the election is nonpartisan. The qualifying fee shall be remitted to the general revenue fund of the qualifying officer to help defray the cost of the election. The petition form shall be submitted and checked in the same manner as those for nonpartisan judicial candidates pursuant to s. 105.035.

(3)(a) If a multicounty special district has a popularly elected governing board, elections for the purpose of electing members to such board shall conform to the Florida Election Code, chapters 97-106.

(b) With the exception of those districts conducting elections on a one-acre/one-vote basis, qualifying for multicounty special district governing board positions shall be coordinated by the Department of State. Elections for governing board members elected by registered electors shall be nonpartisan, except when partisan elections are specified by a district's charter. Candidates shall qualify by paying a filing fee equal to 3 percent of the salary or honorarium paid for the office, or a filing fee of \$25, whichever is more. Alternatively, candidates may qualify by submitting a petition that contains the signatures of at least 3 percent of the district's registered electors, or any lesser amount of signatures directed by chapter 99, chapter 582, or other general or special law. No election or party assessment shall be levied if the election is nonpartisan. The qualifying fee shall be remitted to the Department of State. The petition form shall be submitted and checked in the same manner as those for nonpartisan judicial candidates pursuant to s. 105.035.

(4) With the exception of elections of special district governing board members conducted on a one-acre/one-vote basis, in any election conducted in a special district the decision made by a majority of those voting shall prevail, except as otherwise specified by law.

(5)(a) The department may provide, contract for, or assist in conducting education programs, as its budget permits, for all newly elected or appointed members of district boards. The education programs shall include, but are not limited to, courses on the code of ethics for public officers and employees, public meetings and public records requirements, public finance, and parliamentary procedure. Course content may be offered by means of the following: videotapes, live seminars,

workshops, conferences, teleconferences, computer-based training, multimedia presentations, or other available instructional methods.

(b) An individual district board, at its discretion, may bear the costs associated with educating its members. Board members of districts which have qualified for a zero annual fee for the most recent invoicing period pursuant to s. 189.427 shall not be required to pay a fee for any education program the department provides, contracts for, or assists in conducting.

(6) The provisions of this section shall not apply to community development districts established pursuant to chapter 190 or to water management districts created and operated pursuant to chapter 373.

(7) Nothing in this act requires that a special district governed by an appointed board convert to an elected governing board.

History.--s. 12, ch. 89-169; s. 13, ch. 97-255; s. 2, ch. 98-320; s. 31, ch. 99-378.

**189.4051 Elections; special requirements and procedures for districts with governing boards elected on a one-acre/one-vote basis.--**

(1) **DEFINITIONS.--**As used in this section:

(a) "Qualified elector" means any person at least 18 years of age who is a citizen of the United States, a permanent resident of Florida, and a freeholder or freeholder's spouse and resident of the district who registers with the supervisor of elections of a county within which the district lands are located when the registration books are open.

(b) "Urban area" means a contiguous developed and inhabited urban area within a district with a minimum average resident population density of at least 1.5 persons per acre as defined by the latest official census, special census, or population estimate or a minimum density of one single-family home per 2.5 acres with access to improved roads or a minimum density of one single-family home per 5 acres within a recorded plat subdivision. Urban areas shall be designated by the governing board of the district with the assistance of all local general-purpose governments having jurisdiction over the area within the district.

(c) "Governing board member" means any duly elected member of the governing board of a special district elected pursuant to this section, provided that any board member elected by popular vote shall be a qualified district elector and any board member elected on a one-acre/one-vote basis shall meet the requirements of s. 298.11 for election to the board.

(d) "Contiguous developed urban area" means any reasonably compact urban area located entirely within a special district. The separation of urban areas by a publicly owned park, right-of-way, highway, road, railroad, canal, utility, body of water, watercourse, or other minor geographical division of a similar nature shall not prevent such areas from being defined as urban areas.

(2) **POPULAR ELECTIONS; REFERENDUM; DESIGNATION OF URBAN AREAS.--**

(a) *Referendum.--*

1. A referendum shall be called by the governing board of a special district where the board is elected on a one-acre/one-vote basis on the question of whether certain members of a district governing board should be elected by qualified electors, provided each of the following conditions has been satisfied at least 60 days prior to the general or special election at which the referendum is to be held:

- a. The district shall have a total population, according to the latest official state census, a special census, or a population estimate, of at least 500 qualified electors.
  - b. A petition signed by 10 percent of the qualified electors of the district shall have been filed with the governing board of the district. The petition shall be submitted to the supervisor of elections of the county or counties in which the lands are located. The supervisor shall, within 30 days after the receipt of the petitions, certify to the governing board the number of signatures of qualified electors contained on the petition.
2. Upon verification by the supervisor or supervisors of elections of the county or counties within which district lands are located that 10 percent of the qualified electors of the district have petitioned the governing board, a referendum election shall be called by the governing board at the next regularly scheduled election of governing board members occurring at least 30 days after verification of the petition or within 6 months of verification, whichever is earlier.
  3. If the qualified electors approve the election procedure described in this subsection, the governing board of the district shall be increased to five members and elections shall be held pursuant to the criteria described in this subsection beginning with the next regularly scheduled election of governing board members or at a special election called within 6 months following the referendum and final unappealed approval of district urban area maps as provided in paragraph (b), whichever is earlier.
  4. If the qualified electors of the district disapprove the election procedure described in this subsection, elections of the members of the governing board shall continue as described by s. 298.12 or the enabling legislation for the district. No further referendum on the question shall be held for a minimum period of 2 years following the referendum.
- (b) *Designation of urban areas.--*
1. Within 30 days after approval of the election process described in this subsection by qualified electors of the district, the governing board shall direct the district staff to prepare and present maps of the district describing the extent and location of all urban areas within the district. Such determination shall be based upon the criteria contained within paragraph (1)(b).
  2. Within 60 days after approval of the election process described in this subsection by qualified electors of the district, the maps describing urban areas within the district shall be presented to the governing board.
  3. Any district landowner or elector may contest the accuracy of the urban area maps prepared by the district staff within 30 days after submission to the governing board. Upon notice of objection to the maps, the governing board shall request the county engineer to prepare and present maps of the district describing the extent and location of all urban areas within the district. Such determination shall be based upon the criteria contained within paragraph (1)(b). Within 30 days after the governing board request, the county engineer shall present the maps to the governing board.
  4. Upon presentation of the maps by the county engineer, the governing board shall compare the maps submitted by both the district staff and the county engineer and make a determination as to which set of maps to adopt. Within 60 days after presentation of all such maps, the governing board may amend and shall adopt the official maps at a regularly scheduled board meeting.
  5. Any district landowner or qualified elector may contest the accuracy of the urban area maps adopted by the board within 30 days after adoption by petition to the circuit court with jurisdiction over the district. Accuracy shall be determined pursuant to paragraph (1)(b). Any petitions so filed shall be heard expeditiously, and the maps shall either be approved or approved with necessary amendments to render the maps accurate and shall be certified to the board.

6. Upon adoption by the board or certification by the court, the district urban area maps shall serve as the official maps for determination of the extent of urban area within the district and the number of governing board members to be elected by qualified electors and by the one-acre/one-vote principle at the next regularly scheduled election of governing board members.

7. Upon a determination of the percentage of urban area within the district as compared with total area within the district, the governing board shall order elections in accordance with the percentages pursuant to paragraph (3)(a). The landowners' meeting date shall be designated by the governing board.

8. The maps shall be updated and readopted every 5 years or sooner in the discretion of the governing board.

**(3) GOVERNING BOARD.--**

**(a) *Composition of board.*--**

1. Members of the governing board of the district shall be elected in accordance with the following determinations of urban area:

a. If urban areas constitute 25 percent or less of the district, one governing board member shall be elected by the qualified electors and four governing board members shall be elected in accordance with the one-acre/one-vote principle contained within s. 298.11 or the district-enabling legislation.

b. If urban areas constitute 26 percent to 50 percent of the district, two governing board members shall be elected by the qualified electors and three governing board members shall be elected in accordance with the one-acre/one-vote principle contained within s. 298.11 or the district-enabling legislation.

c. If urban areas constitute 51 percent to 70 percent of the district, three governing board members shall be elected by the qualified electors and two governing board members shall be elected in accordance with the one-acre/one-vote principle contained within s. 298.11 or the district-enabling legislation.

d. If urban areas constitute 71 percent to 90 percent of the district, four governing board members shall be elected by the qualified electors and one governing board member shall be elected in accordance with the one-acre/one-vote principle contained within s. 298.11 or the district-enabling legislation.

e. If urban areas constitute 91 percent or more of the district, all governing board members shall be elected by the qualified electors.

2. All governing board members elected by qualified electors shall be elected at large.

**(b) *Term of office.*--**All governing board members elected by qualified electors shall have a term of 4 years except for governing board members elected at the first election and the first landowners' meeting following the referendum prescribed in paragraph (2)(a). Governing board members elected at the first election and the first landowners' meeting following the referendum shall serve as follows:

1. If one governing board member is elected by the qualified electors and four are elected on a one-acre/one-vote basis, the governing board member elected by the qualified electors shall be elected for a period of 4 years. Governing board members elected on a one-acre/one-vote basis shall be elected for periods of 1, 2, 3, and 4 years, respectively, as prescribed by ss. 298.11 and 298.12.



2. If two governing board members are elected by the qualified electors and three are elected on a one-acre/one-vote basis, the governing board members elected by the electors shall be elected for a period of 4 years. Governing board members elected on a one-acre/one-vote basis shall be elected for periods of 1, 2, and 3 years, respectively, as prescribed by ss. 298.11 and 298.12.

3. If three governing board members are elected by the qualified electors and two are elected on a one-acre/one-vote basis, two of the governing board members elected by the electors shall be elected for a term of 4 years and the other governing board member elected by the electors shall be elected for a term of 2 years. Governing board members elected on a one-acre/one-vote basis shall be elected for terms of 1 and 2 years, respectively, as prescribed by ss. 298.11 and 298.12.

4. If four governing board members are elected by the qualified electors and one is elected on a one-acre/one-vote basis, two of the governing board members elected by the electors shall be elected for a term of 2 years and the other two for a term of 4 years. The governing board member elected on a one-acre/one-vote basis shall be elected for a term of 1 year as prescribed by ss. 298.11 and 298.12.

5. If five governing board members are elected by the qualified electors, three shall be elected for a term of 4 years and two for a term of 2 years.

6. If any vacancy occurs in a seat occupied by a governing board member elected by the qualified electors, the remaining members of the governing board shall, within 45 days after the vacancy occurs, appoint a person who would be eligible to hold the office to the unexpired term.

*(c) Landowners' meetings.--*

1. An annual landowners' meeting shall be held pursuant to s. 298.11 and at least one governing board member shall be elected on a one-acre/one-vote basis pursuant to s. 298.12 for so long as 10 percent or more of the district is not contained in an urban area. In the event all district governing board members are elected by qualified electors, there shall be no further landowners' meetings.

2. At any landowners' meeting called pursuant to this section, 50 percent of the district acreage shall not be required to constitute a quorum and each governing board member shall be elected by a majority of the acreage represented either by owner or proxy present and voting at said meeting.

3. All landowners' meetings of districts operating pursuant to this section shall be set by the board within the month preceding the month of the election of the governing board members by the electors.

4. Vacancies on the board shall be filled pursuant to s. 298.12 except as otherwise provided in subparagraph (b)6.

(4) QUALIFICATIONS.--Elections for governing board members elected by qualified electors shall be nonpartisan. Qualifications shall be pursuant to the Florida Election Code and shall occur during the qualifying period established by s. 99.061. Qualification requirements shall only apply to those governing board member candidates elected by qualified electors. Following the first election pursuant to this section, elections to the governing board by qualified electors shall occur at the next regularly scheduled election closest in time to the expiration date of the term of the elected governing board member. If the next regularly scheduled election is beyond the normal expiration time for the term of an elected governing board member, the governing board member shall hold office until the election of a successor.

(5) Those districts established as single-purpose water control districts, and which continue to act as single-purpose water control districts, pursuant to chapter 298, pursuant to a special act, pursuant to a local government ordinance, or pursuant to a judicial decree, shall be exempt from the provisions of this section. All other independent special districts with governing boards elected



on a one-acre/one-vote basis shall be subject to the provisions of this section.

(6) The provisions of this section shall not apply to community development districts established pursuant to chapter 190.

**History.**--s. 13, ch. 89-169; s. 14, ch. 97-255.

**189.4065 Collection of non-ad valorem assessments.**--Community development districts may and other special districts shall provide for the collection of annual non-ad valorem assessments in accordance with chapter 197 or monthly non-ad valorem assessments in accordance with chapter 170.

**History.**--s. 14, ch. 89-169.

**189.408 Special district bond referenda.**--Where required by the State Constitution or general law, special district bond referenda shall be conducted according to ss. 100.211 and 100.221. The provisions of this section shall not apply to community development districts established pursuant to chapter 190.

**History.**--s. 15, ch. 89-169.

**189.4085 Bond issuance.**--If a referendum is not required, the district shall ensure that, at the time of the closing, the bonds met at least one of the following criteria:

- (1) The bonds were rated in one of the highest four ratings by a nationally recognized rating service;
- (2) The bonds were privately placed with or otherwise sold to accredited investors;
- (3) The bonds were backed by a letter of credit from a bank, savings and loan association, or other creditworthy guarantor, or by bond insurance, guaranteeing payment of principal and interest on the bonds; or
- (4) The bonds were accompanied by an independent financial advisory opinion stating that estimates of debt service coverage and probability of debt repayment are reasonable, which opinion was provided by an independent financial advisory, consulting, or accounting firm registered where professional registration is required by law and which is in good standing with the state and in conformance with all applicable professional standards for such opinions.

**History.**--s. 16, ch. 89-169; s. 10, ch. 96-324.

**189.412 Special District Information Program; duties and responsibilities.**--The Special District Information Program of the Department of Community Affairs is created and has the following special duties:

- (1) The collection and maintenance of special district noncompliance status reports from the Department of Management Services, the Department of Financial Services, the Division of Bond Finance of the State Board of Administration, and the Auditor General for the reporting required in ss. 112.63, 218.32, 218.38, and 218.39. The noncompliance reports must list those special districts that did not comply with the statutory reporting requirements.
- (2) The maintenance of a master list of independent and dependent special districts which shall be annually updated and distributed to the appropriate officials in state and local governments.
- (3) The publishing and updating of a "Florida Special District Handbook" that contains, at a

minimum:

- (a) A section that specifies definitions of special districts and status distinctions in the statutes.
- (b) A section or sections that specify current statutory provisions for special district creation, implementation, modification, dissolution, and operating procedures.
- (c) A section that summarizes the reporting requirements applicable to all types of special districts as provided in ss. 189.417 and 189.418.
- (4) When feasible, securing and maintaining access to special district information collected by all state agencies in existing or newly created state computer systems.
- (5) The facilitation of coordination and communication among state agencies regarding special district information.
- (6) The conduct of studies relevant to special districts.
- (7) The provision of assistance related to and appropriate in the performance of requirements specified in this chapter, including assisting with an annual conference sponsored by the Florida Association of Special Districts or its successor.
- (8) Providing assistance to local general-purpose governments and certain state agencies in collecting delinquent reports or information, helping special districts comply with reporting requirements, declaring special districts inactive when appropriate, and, when directed by the Legislative Auditing Committee, initiating enforcement provisions as provided in ss. 189.4044, 189.419, and 189.421.

**History.**--s. 18, ch. 89-169; s. 15, ch. 90-502; s. 79, ch. 92-279; s. 55, ch. 92-326; s. 15, ch. 95-154; ss. 3, 17, ch. 95-272; ss. 11, 12, ch. 96-324; s. 15, ch. 97-255; s. 3, ch. 97-287; s. 69, ch. 99-255; s. 32, ch. 99-378; s. 45, ch. 2001-266; s. 25, ch. 2002-1; s. 168, ch. 2003-261; s. 18, ch. 2004-305.

**189.413 Special districts; oversight of state funds use.**--Any state agency administering funding programs for which special districts are eligible shall be responsible for oversight of the use of such funds by special districts. The oversight responsibilities shall include, but not be limited to:

- (1) Reporting the existence of the program to the Special District Information Program of the Department of Community Affairs.
- (2) Submitting annually a list of special districts participating in a state funding program to the Special District Information Program of the Department of Community Affairs. This list must indicate the special districts, if any, that are not in compliance with state funding program requirements.

**History.**--s. 19, ch. 89-169.

**189.415 Special district public facilities report.**--

- (1) It is declared to be the policy of this state to foster coordination between special districts and local general-purpose governments as those local general-purpose governments develop comprehensive plans under the Local Government Comprehensive Planning and Land Development Regulation Act, pursuant to part II of chapter 163.
- (2) Each independent special district shall submit to each local general-purpose government in which it is located a public facilities report and an annual notice of any changes. The public

facilities report shall specify the following information:

- (a) A description of existing public facilities owned or operated by the special district, and each public facility that is operated by another entity, except a local general-purpose government, through a lease or other agreement with the special district. This description shall include the current capacity of the facility, the current demands placed upon it, and its location. This information shall be required in the initial report and updated every 5 years at least 12 months prior to the submission date of the evaluation and appraisal report of the appropriate local government required by s. 163.3191. At least 12 months prior to the date on which each special district's first updated report is due, the department shall notify each independent district on the official list of special districts compiled pursuant to s. 189.4035 of the schedule for submission of the evaluation and appraisal report by each local government within the special district's jurisdiction.
  - (b) A description of each public facility the district is building, improving, or expanding, or is currently proposing to build, improve, or expand within at least the next 5 years, including any facilities that the district is assisting another entity, except a local general-purpose government, to build, improve, or expand through a lease or other agreement with the district. For each public facility identified, the report shall describe how the district currently proposes to finance the facility.
  - (c) If the special district currently proposes to replace any facilities identified in paragraph (a) or paragraph (b) within the next 10 years, the date when such facility will be replaced.
  - (d) The anticipated time the construction, improvement, or expansion of each facility will be completed.
  - (e) The anticipated capacity of and demands on each public facility when completed. In the case of an improvement or expansion of a public facility, both the existing and anticipated capacity must be listed.
- (3) A special district proposing to build, improve, or expand a public facility which requires a certificate of need pursuant to chapter 408 shall elect to notify the appropriate local general-purpose government of its plans either in its 5-year plan or at the time the letter of intent is filed with the Agency for Health Care Administration pursuant to s. 408.039.
- (4) Those special districts building, improving, or expanding public facilities addressed by a development order issued to the developer pursuant to s. 380.06 may use the most recent annual report required by s. 380.06(15) and (18) and submitted by the developer, to the extent the annual report provides the information required by subsection (2).
- (5) The facilities report shall be prepared and submitted within 1 year after the district's creation.
- (6) For purposes of the preparation or revision of local government comprehensive plans required pursuant to s. 163.3161, a special district public facilities report may be used and relied upon by the local general-purpose government or governments within which the special district is located.
- (7) Any special district that has completed the construction of its public facilities, improvements to its facilities, or its development is not required to submit a public facilities report, but must submit the information required by paragraph (2)(a).
- (8) A special district plan of reclamation required pursuant to general law or special act, including, but not limited to, a plan prepared pursuant to chapter 298 which complies with the requirements of subsection (2), shall satisfy the requirement for a public facilities report. A water management and control plan adopted pursuant to s. 190.013, which complies with the requirements of subsection (2), satisfies the requirement for a public facilities report for the

facilities the plan addresses.

(9) The Reedy Creek Improvement District is not required to provide the public facilities report as specified in subsection (2).

(10) Each deepwater port listed in s. 403.021(9)(b) shall satisfy the requirements of subsection (2) by submitting to the appropriate local government a comprehensive master plan as required by s. 163.3178(2)(k). All other ports shall submit a public facilities report as required in subsection (2).

History.--s. 20, ch. 89-169; s. 26, ch. 95-280; s. 16, ch. 97-255; s. 17, ch. 99-8.

**189.4155 Activities of special districts; local government comprehensive planning.--**

(1) Construction or expansion of a public facility, or major alteration which affects the quantity or quality of the level of service of a public facility, which is undertaken or initiated by a special district or through some other entity shall be consistent with the applicable local government comprehensive plan adopted pursuant to part II of chapter 163; provided, however, the local government comprehensive plan shall not:

(a) Require an independent special district to construct, expand, or perform a major alteration of any public facility; or

(b) Require any special district to construct, expand, or perform a major alteration of any public facility which would result in an impairment of covenants and agreements relating to bonds validated or issued by the special district.

(2) When a local government has issued a development order which approves the construction of public facilities or has issued a development order pursuant to chapter 380, the local government shall not use the requirements of this section to limit or modify the right of an independent special district to construct, modify, operate, or maintain public facilities authorized by the development order.

(3) The provisions of this section shall not apply to water management districts created pursuant to s. 373.069, to regional water supply authorities created pursuant to s. 373.1962, or to spoil disposal sites owned or used by the Federal Government.

(4) Ports listed in s. 403.021(9)(b) which operate in compliance with a port master plan which has been incorporated into the appropriate local government comprehensive plan pursuant to s. 163.3178(2)(k) shall be deemed to be in compliance with the requirements of this section.

(5) Nothing in this section shall create or alter the respective rights of local governments or special districts to provide public facilities or services to a particular geographic area or location, nor shall this section alter or affect the police powers of any local government or the authority or requirements under chapter 163.

History.--s. 21, ch. 89-169; s. 17, ch. 97-255.

**189.4156 Water management district technical assistance; local government comprehensive planning.--**Water management districts shall assist local governments in the development of local government comprehensive plan elements related to water resource issues as required by s. 373.0391.

History.--s. 22, ch. 89-169.

**189.416 Designation of registered office and agent.--**

(1) Within 30 days after the first meeting of its governing board, each special district in the state shall designate a registered office and a registered agent and file such information with the local governing authority or authorities and with the department. The registered agent shall be an agent of the district upon whom any process, notice, or demand required or permitted by law to be served upon the district may be served. A registered agent shall be an individual resident of this state whose business address is identical with the registered office of the district. The registered office may be, but need not be, the same as the place of business of the special district.

(2) The district may change its registered office or change its registered agent, or both, upon filing such information with the local governing authority or authorities and with the department.

History.--s. 10, ch. 79-183; s. 15, ch. 81-167; s. 23, ch. 89-169; s. 18, ch. 97-255.

Note.--Former s. 189.004.

#### **189.417 Meetings; notice; required reports.--**

(1) The governing body of each special district shall file quarterly, semiannually, or annually a schedule of its regular meetings with the local governing authority or authorities. The schedule shall include the date, time, and location of each scheduled meeting. The schedule shall be published quarterly, semiannually, or annually in a newspaper of general paid circulation in the manner required in this subsection. The governing body of an independent special district shall advertise the day, time, place, and purpose of any meeting other than a regular meeting or any recessed and reconvened meeting of the governing body, at least 7 days prior to such meeting, in a newspaper of general paid circulation in the county or counties in which the special district is located, unless a bona fide emergency situation exists, in which case a meeting to deal with the emergency may be held as necessary, with reasonable notice, so long as it is subsequently ratified by the board. No approval of the annual budget shall be granted at an emergency meeting. The advertisement shall be placed in that portion of the newspaper where legal notices and classified advertisements appear. The advertisement shall appear in a newspaper that is published at least 5 days a week, unless the only newspaper in the county is published fewer than 5 days a week. The newspaper selected must be one of general interest and readership in the community and not one of limited subject matter, pursuant to chapter 50. Any other provision of law to the contrary notwithstanding, and except in the case of emergency meetings, water management districts may provide reasonable notice of public meetings held to evaluate responses to solicitations issued by the water management district, by publication in a newspaper of general paid circulation in the county where the principal office of the water management district is located, or in the county or counties where the public work will be performed, no less than 7 days before such meeting.

(2) All meetings of the governing body of the special district shall be open to the public and governed by the provisions of chapter 286.

(3) Meetings of the governing body of the special district shall be held in a public building when available within the district, in a county courthouse of a county in which the district is located, or in a building in the county accessible to the public.

History.--s. 10, ch. 79-183; s. 78, ch. 81-259; s. 24, ch. 89-169; s. 19, ch. 97-255; s. 33, ch. 99-378.

Note.--Former s. 189.005.

#### **189.418 Reports; budgets; audits.--**

(1) When a new special district is created, the district must forward to the department, within 30 days after the adoption of the special act, rule, ordinance, resolution, or other document that provides for the creation of the district, a copy of the document and a written statement that includes a reference to the status of the special district as dependent or independent and the basis



for such classification. In addition to the document or documents that create the district, the district must also submit a map of the district, showing any municipal boundaries that cross the district's boundaries, and any county lines if the district is located in more than one county. The department must notify the local government or other entity and the district within 30 days after receipt of the document or documents that create the district as to whether the district has been determined to be dependent or independent.

(2) Any amendment, modification, or update of the document by which the district was created, including changes in boundaries, must be filed with the department within 30 days after adoption. The department may initiate proceedings against special districts as provided in s. 189.421 for failure to file the information required by this subsection.

(3) The governing body of each special district shall adopt a budget by resolution each fiscal year. The total amount available from taxation and other sources, including amounts carried over from prior fiscal years, must equal the total of appropriations for expenditures and reserves. The adopted budget must regulate expenditures of the special district, and it is unlawful for any officer of a special district to expend or contract for expenditures in any fiscal year except in pursuance of budgeted appropriations.

(4) The proposed budget of a dependent special district shall be presented in accordance with generally accepted accounting principles, contained within the general budget of the local governing authority, and be clearly stated as the budget of the dependent district. However, with the concurrence of the local governing authority, a dependent district may be budgeted separately.

(5) The governing body of each special district at any time within a fiscal year or within up to 60 days following the end of the fiscal year may amend a budget for that year. The budget amendment must be adopted by resolution.

(6) A local governing authority may, in its discretion, review the budget or tax levy of any special district located solely within its boundaries.

(7) All reports or information required to be filed with a local governing authority under ss. 189.415, 189.416, and 189.417 and this section shall:

(a) When the local governing authority is a county, be filed with the clerk of the board of county commissioners.

(b) When the district is a multicounty district, be filed with the clerk of the county commission in each county.

(c) When the local governing authority is a municipality, be filed at the place designated by the municipal governing body.

History.--s. 10, ch. 79-183; s. 16, ch. 81-167; s. 25, ch. 89-169; s. 13, ch. 96-324; s. 144, ch. 2001-266; s. 26, ch. 2002-1; s. 19, ch. 2004-305.

Note.--Former s. 189.006.

**189.419 Effect of failure to file certain reports or information.--**

(1) If a special district fails to file the reports or information required under s. 189.415, s. 189.416, or s. 189.417 with the local governing authority, the person authorized to receive and read the reports or information shall notify the district's registered agent and the appropriate local governing authority or authorities. If requested by the district, the governing authority shall grant

an extension of time of up to 30 days for filing the required reports or information.

(2) If at any time the local governing authority or authorities or the board of county commissioners determines that there has been an unjustified failure to file the reports or information described in subsection (1), it may notify the department, and the department may proceed pursuant to s. 189.421.

(3) If a special district fails to file the reports or information required under s. 112.63, s. 218.32, s. 218.38, or s. 218.39 with the appropriate state agency, the agency shall notify the department, and the department shall proceed pursuant to s. 189.421.

History.--s. 10, ch. 79-183; s. 26, ch. 89-169; s. 14, ch. 96-324; s. 145, ch. 2001-266; s. 20, ch. 2004-305.

Note.--Former s. 189.007.

**189.420 Assessments levied on facilities regulated under chapter 513.**--When an independent or dependent special district levies an assessment on a facility regulated under chapter 513, the assessment shall not be based on the assertion that the facility is comprised of residential units. Instead, facilities regulated under chapter 513 shall be assessed in the same manner as a hotel, motel, or other similar facility.

History.--s. 9, ch. 2000-355.

**189.421 Failure of district to disclose financial reports.**--

(1) When notified pursuant to s. 189.419, the department shall attempt to assist a special district to comply with its financial reporting requirements by sending a certified letter to the special district, and a copy of the letter to the chair of the governing body of the local general-purpose government, which includes the following: a description of the required report, including statutory submission deadlines, a contact telephone number for technical assistance to help the special district comply, a 60-day extension of time for filing the required report with the appropriate entity, the address where the report must be filed, and an explanation of the penalties for noncompliance. The department may grant an additional 30-day extension of time if requested to do so in writing by the special district. The department shall notify the appropriate entity of the new extension of time. In the case of a special district that did not timely file the reports or information required by s. 218.38, the department shall send a certified technical assistance letter to the special district which summarizes the requirements and encourages the special district to take steps to prevent the noncompliance from reoccurring.

(2) Failure of a special district to comply with the financial reporting requirements after the procedures of subsection (1) are exhausted shall be deemed final action of the special district. The financial reporting requirements are declared to be essential requirements of law. Remedy for noncompliance shall be by writ of certiorari as set forth in subsection (3).

(3) Pursuant to s. 11.40(5)(b), the Legislative Auditing Committee shall notify the department of those districts that failed to file the required report. Within 30 days after receiving this notice or within 30 days after the extension date provided in subsection (1), whichever occurs later, the department shall proceed as follows: notwithstanding the provisions of chapter 120, the department shall file a petition for writ of certiorari with the circuit court. Venue for all actions pursuant to this subsection shall be in Leon County. The court shall award the prevailing party attorney's fees and costs in all cases filed pursuant to this section unless affirmatively waived by all parties. A writ of certiorari shall be issued unless a respondent establishes that the notification of the Legislative Auditing Committee was issued as a result of material error. Proceedings under this subsection shall otherwise be governed by the Rules of Appellate Procedure.

History.--s. 10, ch. 79-183; s. 79, ch. 81-259; s. 27, ch. 89-169; s. 80, ch. 92-279; s. 55, ch. 92-326; s. 961, ch. 95-147; s. 32, ch. 96-410; s. 20, ch. 97-255; s. 21, ch. 2004-305.

Note.--Former s. 189.008.

**189.423** Purchase, sale, or privatization of water, sewer, or wastewater reuse utility by special district.--No dependent or independent special district may purchase or sell a water, sewer, or wastewater reuse utility that provides service to the public for compensation, or enter into a wastewater facility privatization contract for a wastewater facility until the governing body of the district has held a public hearing on the purchase, sale, or wastewater facility privatization contract and made a determination that the purchase, sale, or wastewater facility privatization contract is in the public interest. In determining if the purchase, sale, or wastewater facility privatization contract is in the public interest, the district shall consider, at a minimum, the following:

- (1) The most recent available income and expense statement for the utility;
- (2) The most recent available balance sheet for the utility, listing assets and liabilities and clearly showing the amount of contributions-in-aid-of-construction and the accumulated depreciation thereon;
- (3) A statement of the existing rate base of the utility for regulatory purposes;
- (4) The physical condition of the utility facilities being purchased, sold, or subject to wastewater facility privatization contract;
- (5) The reasonableness of the purchase, sale, or wastewater facility privatization contract price and terms;
- (6) The impacts of the purchase, sale, or wastewater facility privatization contract on utility customers, both positive and negative;
- (7)(a) Any additional investment required and the ability and willingness of the purchaser or the private firm under a wastewater facility privatization contract to make that investment, whether the purchaser is the special district or the entity purchasing the utility from the special district;
- (b) In the case of a wastewater facility privatization contract, the terms and conditions on which the private firm will provide capital investment and financing or a combination thereof for contemplated capital replacements, additions, expansions, and repairs. The special district shall give significant weight to this criteria.
- (8) The alternatives to the purchase, sale, or wastewater facility privatization contract and the potential impact on utility customers if the purchase, sale, or wastewater facility privatization contract is not made;
- (9)(a) The ability of the purchaser or the private firm under a wastewater facility privatization contract to provide and maintain high-quality and cost-effective utility service, whether the purchaser is the special district or the entity purchasing the utility from the special district;
- (b) In the case of a wastewater facility privatization contract, the special district shall give significant weight to the technical expertise and experience of the private firm in carrying out the obligations specified in the wastewater facility privatization contract; and
- (10) All moneys paid by a private firm to a special district pursuant to a wastewater facility privatization contract shall be used for the purpose of reducing or offsetting property taxes,

wastewater service rates, or debt reduction or making infrastructure improvements or capital asset expenditures or other public purpose; provided, however, nothing herein shall preclude the special district from using all or part of the moneys for the purpose of the special district's qualification for relief from the repayment of federal grant awards associated with the wastewater system as may be required by federal law or regulation.

The special district shall prepare a statement showing that the purchase, sale, or wastewater facility privatization contract is in the public interest, including a summary of the purchaser's or private firm's experience in water, sewer, or wastewater reuse utility operation and a showing of financial ability to provide the service, whether the purchaser or private firm is the special district or the entity purchasing the utility from the special district. The provisions of this section shall not apply to community development districts established pursuant to chapter 190.

**History.**--s. 4, ch. 84-84; s. 29, ch. 89-169; s. 7, ch. 93-51; s. 8, ch. 96-202.

**Note.**--Former s. 189.30.

**189.425 Rulemaking authority.**--The Department of Community Affairs may adopt rules to implement the provisions of this chapter.

**History.**--s. 59, ch. 89-169; s. 22, ch. 97-255.

**189.427 Fee schedule; Operating Trust Fund.**--The Department of Community Affairs, by rule, shall establish a schedule of fees to pay one-half of the costs incurred by the department in administering this act, except that the fee may not exceed \$175 per district per year. The fees collected under this section shall be deposited in the Operating Trust Fund, which shall be administered by the Department of Community Affairs. Any fee rule must consider factors such as the dependent and independent status of the district and district revenues for the most recent fiscal year as reported to the Department of Financial Services. The department may assess fines of not more than \$25, with an aggregate total not to exceed \$50, as penalties against special districts that fail to remit required fees to the department. It is the intent of the Legislature that general revenue funds will be made available to the department to pay one-half of the cost of administering this act.

**History.**--s. 64, ch. 89-169; s. 41, ch. 93-120; s. 15, ch. 96-324; s. 3, ch. 2000-118; s. 31, ch. 2000-151; s. 169, ch. 2003-261.

**189.428 Special districts; oversight review process.**--

(1) The Legislature finds it to be in the public interest to establish an oversight review process for special districts wherein each special district in the state may be reviewed by the local general-purpose government in which the district exists. The Legislature further finds and determines that such law fulfills an important state interest. It is the intent of the Legislature that the oversight review process shall contribute to informed decisionmaking. These decisions may involve the continuing existence or dissolution of a district, the appropriate future role and focus of a district, improvements in the functioning or delivery of services by a district, and the need for any transition, adjustment, or special implementation periods or provisions. Any final recommendations from the oversight review process that are adopted and implemented by the appropriate level of government shall not be implemented in a manner that would impair the obligation of contracts.

(2) It is the intent of the Legislature that any oversight review process be conducted in conjunction with special district public facilities reporting and the local government evaluation and appraisal report process described in s. 189.415(2).

(3) The order in which special districts may be subject to oversight review shall be determined by the reviewer and shall occur as follows:



(a) All dependent special districts may be reviewed by the general-purpose local government to which they are dependent.

(b) All single-county independent special districts may be reviewed by a county or municipality in which they are located or the government that created the district. Any single-county independent district that serves an area greater than the boundaries of one general-purpose local government may only be reviewed by the county on the county's own initiative or upon receipt of a request from any municipality served by the special district.

(c) All multicounty independent special districts may be reviewed by the government that created the district. Any general-purpose local governments within the boundaries of a multicounty district may prepare a preliminary review of a multicounty special district for possible reference or inclusion in the full review report.

(d) Upon request by the reviewer, any special district within all or a portion of the same county as the special district being reviewed may prepare a preliminary review of the district for possible reference or inclusion in the full oversight review report.

(4) All special districts, governmental entities, and state agencies shall cooperate with the Legislature and with any general-purpose local government seeking information or assistance with the oversight review process and with the preparation of an oversight review report.

(5) Those conducting the oversight review process shall, at a minimum, consider the listed criteria for evaluating the special district, but may also consider any additional factors relating to the district and its performance. If any of the listed criteria does not apply to the special district being reviewed, it need not be considered. The criteria to be considered by the reviewer include:

(a) The degree to which the service or services offered by the special district are essential or contribute to the well-being of the community.

(b) The extent of continuing need for the service or services currently provided by the special district.

(c) The extent of municipal annexation or incorporation activity occurring or likely to occur within the boundaries of the special district and its impact on the delivery of services by the special district.

(d) Whether there is a less costly alternative method of delivering the service or services that would adequately provide the district residents with the services provided by the district.

(e) Whether transfer of the responsibility for delivery of the service or services to an entity other than the special district being reviewed could be accomplished without jeopardizing the district's existing contracts, bonds, or outstanding indebtedness.

(f) Whether the Auditor General has notified the Legislative Auditing Committee that the special district's audit report, reviewed pursuant to s. 11.45(7), indicates that the district has met any of the conditions specified in s. 218.503(1) or that a deteriorating financial condition exists that may cause a condition described in s. 218.503(1) to occur if actions are not taken to address such condition.

(g) Whether the district is inactive according to the official list of special districts, and whether the district is meeting and discharging its responsibilities as required by its charter, as well as projected increases or decreases in district activity.

(h) Whether the special district has failed to comply with any of the reporting requirements in this



chapter, including preparation of the public facilities report.

(i) Whether the special district has designated a registered office and agent as required by s. 189.416, and has complied with all open public records and meeting requirements.

(6) Any special district may at any time provide the Legislature and the general-purpose local government conducting the review or making decisions based upon the final oversight review report with written responses to any questions, concerns, preliminary reports, draft reports, or final reports relating to the district.

(7) The final report of a reviewing government shall be filed with the government that created the district and shall serve as the basis for any modification to the district charter or dissolution or merger of the district.

(8) If legislative dissolution or merger of a district is proposed in the final report, the reviewing government shall also propose a plan for the merger or dissolution, and the plan shall address the following factors in evaluating the proposed merger or dissolution:

(a) Whether, in light of independent fiscal analysis, level-of-service implications, and other public policy considerations, the proposed merger or dissolution is the best alternative for delivering services and facilities to the affected area.

(b) Whether the services and facilities to be provided pursuant to the merger or dissolution will be compatible with the capacity and uses of existing local services and facilities.

(c) Whether the merger or dissolution is consistent with applicable provisions of the state comprehensive plan, the strategic regional policy plan, and the local government comprehensive plans of the affected area.

(d) Whether the proposed merger adequately provides for the assumption of all indebtedness.

The reviewing government shall consider the report in a public hearing held within the jurisdiction of the district. If adopted by the governing board of the reviewing government, the request for legislative merger or dissolution of the district may proceed. The adopted plan shall be filed as an attachment to the economic impact statement regarding the proposed special act or general act of local application dissolving a district.

(9) This section does not apply to a deepwater port listed in s. 311.09(1) which is in compliance with a port master plan adopted pursuant to s. 163.3178(2)(k), or to an airport authority operating in compliance with an airport master plan approved by the Federal Aviation Administration, or to any special district organized to operate health systems and facilities licensed under chapter 395 or chapter 400.

**History.**--s. 23, ch. 97-255; s. 46, ch. 2001-266; s. 22, ch. 2004-305.

#### **189.429 Codification.**--

(1) Each district, by December 1, 2004, shall submit to the Legislature a draft codified charter, at its expense, so that its special acts may be codified into a single act for reenactment by the Legislature, if there is more than one special act for the district. The Legislature may adopt a schedule for individual district codification. Any codified act relating to a district, which act is submitted to the Legislature for reenactment, shall provide for the repeal of all prior special acts of the Legislature relating to the district. The codified act shall be filed with the department pursuant to s. 189.418(2).

(2) The reenactment of existing law under this section shall not be construed as a grant of additional authority nor to supersede the authority of any entity pursuant to law. Exceptions to law contained in any special act that are reenacted pursuant to this section shall continue to apply.

(3) The reenactment of existing law under this section shall not be construed to modify, amend, or alter any covenants, contracts, or other obligations of any district with respect to bonded indebtedness. Nothing pertaining to the reenactment of existing law under this section shall be construed to affect the ability of any district to levy and collect taxes, assessments, fees, or charges for the purpose of redeeming or servicing bonded indebtedness of the district.

History.--s. 24, ch. 97-255; s. 3, ch. 98-320; s. 146, ch. 2001-266.

**189.430 Community Improvement Authority Act; short title.--**This act may be cited as the "Community Improvement Authority Act."

History.--s. 1, ch. 2000-348.

**189.431 Legislative findings; intent.--**

(1) The Legislature finds that certain counties in the state have the need for enhancement of areas surrounding major downtown areas through the improvement of existing facilities and the development of facilities and other attractions, including professional sports facilities, and other related amenities and infrastructure. The Legislature also finds that these projects serve a paramount public purpose and that there is a need to provide a comprehensive method and funding sources for providing for the development and operation of facilities and other attractions, including professional sports facilities, and other related amenities and infrastructure.

(2) It is declared to be the intent of the Legislature to prescribe a uniform procedure for establishing independent authorities for the purpose of planning, financing, constructing, renovating, developing, operating, and maintaining facilities and other attractions, including professional sports facilities and other related amenities and infrastructure within highly populated counties of the state and within counties contiguous therewith.

(3) It is the intent of the Legislature that each authority shall take all steps reasonable, necessary, or advisable to generate local support for the development of projects, including professional sports facilities and related amenities and infrastructure, to serve as an intermediary and facilitate negotiations with and among private interests, community organizations, and governmental authorities in connection with the construction or development of such projects, to explore, research, and analyze financing and related alternatives for the construction or development of such projects, and to present findings and recommendations to the appropriate governmental entities with respect to the construction or development of such projects.

(4) Because the independent authorities so created shall be empowered to exercise certain substantial powers and authority in more than one county, it is declared to be the intent of the Legislature that the Community Improvement Authority Act be construed for all purposes as a general law that relates to more than one county and that the independent authorities so created not be deemed to have jurisdiction lying wholly within any one county within the meaning of any constitutional, statutory, or charter provision.

History.--s. 2, ch. 2000-348.

**189.432 Definitions; Community Improvement Authority Act.--**As used in this act, the term:

(1) "Authority" means an authority created under this act.

- (2) "Board" or "board of supervisors" means the governing body of an authority.
- (3) "Bond" means any general obligation bond, revenue bond, refunding bond, note, or other debt obligation authorized under this act.
- (4) "Department" means the Department of Revenue.
- (5) "Eligible county" means any county within the state which simultaneously satisfies the following criteria:
- (a) At least two professional sports facilities exist in the county, and
  - (b) The county has a population of not less than 1.5 million according to the most recent annual publication of County Population Estimates of the U.S. Bureau of the Census. Once a governing body has been appointed for an authority in an eligible county, that county is considered an eligible county for all purposes of this act, notwithstanding subsequent reductions in population.
- (6) "Professional sports facility" means a ballpark, stadium, arena, coliseum, or similar facility intended for use by a professional sports franchise that exists within the National League or the American League of Major League Baseball, the National Basketball Association, the National Football League, or the National Hockey League.
- (7) "Project" means facilities, attractions, and other improvements authorized by this act, including professional sports facilities, related amenities and infrastructure, and systems, facilities, and services determined by an authority to be beneficial to the development, ownership, and operation of any of the foregoing, including the acquisition of land and any interest therein.
- (8) "Refunding bonds" means bonds issued to retire or refinance outstanding bonds of an authority and the interest and redemption premium thereon.
- (9) "Revenue bonds" means obligations of an authority or other governmental body which are payable from revenues or other funds derived from sources other than ad valorem taxes on real or tangible personal property.

History.--s. 3, ch. 2000-348.

#### **189.433 Creation of a community improvement authority; charter.--**

- (1) A community improvement authority is established within each eligible county with all of the powers, authority, duties, and limitations set forth in this act, including the powers set forth in this act to undertake certain activities in counties contiguous with such eligible county. This act constitutes the charter of each such authority, and this act may be amended in the same manner as any other general law of the state. Each authority shall be designated "\_\_\_\_ County Community Improvement Trust," with the blank space being completed by inserting the name of the eligible county in which the authority is located. Notwithstanding the foregoing, in any eligible county in which an independent port district was abolished with support of the majority of electors of that county voting in a referendum held within 10 years immediately preceding the effective date of this act, an authority shall not be established and no authority shall have jurisdiction or exercise any powers within such county without an approving ordinance adopted by such county's governing body.
- (2) Each authority is a body politic and corporate, a public instrumentality, and an independent special district within the meaning of this chapter, the jurisdiction of which encompasses the applicable eligible county and each county contiguous therewith, except as expressly provided herein.

History.--s. 4, ch. 2000-348.

**189.434 Board of supervisors.--**

- (1) A board of supervisors shall govern each authority.
- (2) The board shall be composed of nine members. Not sooner than 60 days after the authority is established, the Governor shall appoint two members to the board; the county commission of the eligible county shall appoint three members to the board; the mayor of the eligible county shall appoint one member to the board; the city commission with the largest population shall appoint two members to the board; and the mayor of such city shall appoint one member to the board. In the event that within 30 days after the Governor has made two appointments to the board, all nine members shall not have been appointed, then the members of the board of such authority who shall have been appointed shall select by majority vote among them at the organizational meeting of the board, without regard to the presence of a quorum, the remaining members of the board. Each appointing authority shall appoint members of the board to succeed those whose terms are expiring not less than 60 days before the expiration of such term. All members of the board must have expertise in one or more of the following areas: public finance, private finance, public accounting, commercial law, commercial real estate, real estate development, general contracting, architecture, and administration of professional sports team operations. A member of the board may not, at the time of appointment, hold an elected public office in the state.
- (3) The organizational meeting of the board shall be held not less than 30 days and not more than 45 days after the Governor has made two appointments to the board. Appointed members of the board shall hold office for a term of 4 years or until their successors take office, except that the two initial members appointed by the Governor, one of the initial members appointed by the commission of the eligible county, and one of the initial members appointed by the mayor of the eligible county shall be appointed to terms of 3 years. In the event that initial members are appointed by the board, the board shall designate which, if any, of the initial members appointed by the board shall hold office for a term of 3 years, such that four of the nine initial members of the board shall be designated to hold office for terms of 3 years. If during a member's term of office a vacancy occurs, the Governor shall fill the vacancy by appointment for the remainder of the term.
- (4) The members of the board must be residents of the eligible county in which the authority is located.
- (5) Five members of the board shall constitute a quorum, and the affirmative vote of a majority of the members present and voting is necessary to take any official action.
- (6) The members of the board shall serve without compensation but are entitled to reimbursement for travel and per diem expenses in accordance with s. 112.061.
- (7) The board shall at the time of organizing, and annually thereafter, elect a chair for a term of 1 year or until a successor is elected or the chair is removed, with or without cause, by the board. The chair shall preside at all meetings of the board. If the chair is absent or disqualified at any meeting, any member of the board may be designated chair pro tempore for that meeting.

History.--s. 5, ch. 2000-348.

**189.435 Executive director.--**The board may appoint and fix the salary of an executive director to carry out the day-to-day activities of the authority and to administer the policies of the board.

History.--s. 6, ch. 2000-348.

**189.436 Chief financial officer and other officers; financial records; fiscal year.--**



(1) The board may appoint and fix the salary of a chief financial officer of the authority, who is responsible for the funds and finances of the authority. Funds may be disbursed only at the direction of the board signed by the persons designated by the board. The board may give the chief financial officer additional powers and duties.

(2) The board or the executive director upon authority delegated by the board may appoint or employ other officers or employees of the authority and give them appropriate powers and duties.

(3) The financial records of the authority shall be audited by an independent certified public accountant at least once each year.

(4) The fiscal year of the authority begins October 1 of each year and ends September 30 of the following year.

**History.**--s. 7, ch. 2000-348.

**189.437 Budgets.**--On or before June 30 of each year, the executive director of the authority shall prepare a proposed budget, including an estimate of all revenues and anticipated expenditures, for the following fiscal year to be submitted to the board for approval or modification. The budget must be adopted before October 1 of each year.

**History.**--s. 8, ch. 2000-348.

**189.438 Powers and duties.**--

(1) Each authority has, and the board may exercise the power to take all steps reasonable, necessary, or advisable to generate local support for the development of projects, including professional sports facilities and related amenities and infrastructure, to serve as an intermediary and facilitate negotiations with and among private interests, community organizations, and governmental authorities in connection with the construction or development of such projects, and to explore, research, and analyze financing and related alternatives for the construction or development of such projects.

(2) As appropriate, the authority shall present findings and make recommendations to the applicable governmental entity necessary to secure support or action with respect to such recommendations and to secure sources of financing and other funding alternatives for the construction or development of such projects.

(3) In the event an appropriate governmental authority, acting upon the recommendations of the authority, has approved a source or sources of funding to finance the construction or development of a project and such source or sources of funding, if consisting of revenues to be derived from a new tax, assessment, surcharge or levy, or from an increase to an existing tax, assessment, surcharge or levy, have been approved by a majority of the qualified electors within the jurisdiction of such governmental authority voting in a duly held referendum, the board may exercise the power to:

(a) Either alone or in cooperation with the eligible county or other governmental body, finance, refinance, acquire, plan, design, develop, construct, own, lease, operate, maintain, manage, renovate, improve, and promote any project located in the eligible county or any county contiguous therewith consisting of one or more facilities and other attractions and related amenities and infrastructure, including: professional sports facilities and recreational, commercial, cultural, and educational facilities; civic, multi-purpose meeting facilities; and all forms of media communication, transmission, and production systems and facilities.

1. During the 24-month period following establishment of an authority, the only project an authority may initiate is a professional sports facility and related amenities and infrastructure,



which initiation must be evidenced by adoption of a resolution setting forth the authority's commitment to initiate and promptly implement a professional sports facility project;

2. A professional sports facility may not be constructed outside the eligible county that is intended to accommodate regular season games of a professional sports franchise that exists within the National League or the American League of Major League Baseball, the National Basketball Association, the National Football League, or the National Hockey League; and

3. No other project may be constructed outside the eligible county unless the authority and the county in which such facility will be located have entered into an interlocal agreement with respect to such project.

(b) Finance, refinance, acquire, plan, design, develop, construct, own, lease, operate, maintain, manage, renovate, improve, and promote any facilities and infrastructure within the authority's jurisdictional boundaries that are reasonably ancillary, incidental, or supporting of projects, including, but not limited to, roads, bridges, parking, and other transportation facilities.

(4) In addition, the board may exercise the power to:

(a) Provide for the protection of persons using the facilities of the authority by contracting to provide police protection, emergency medical services, and fire protection related to the facilities only with the prior consent of the county or municipality that provides these services at the time of the establishment of the authority.

(b) Sue and be sued in the name of the authority.

(c) Adopt and use a seal and authorize the use of a facsimile thereof.

(d) Make and execute contracts and other instruments necessary or convenient to the exercise of its powers.

(e) Employ staff and contract for the services of such independent consultants, professionals, managers, and operators as the board finds necessary and convenient.

(f) Maintain offices as the board finds necessary.

(g) Adopt procedures for the conduct of the authority's affairs, the conduct of its business, and the administration of this act.

(h) Accept gifts; apply for and use grants or loans of money or other property from the United States or any department, agency, or unit of local government thereof, the state or any of its subdivisions or agencies, any other state or any subdivision or agency thereof, or any person for authority purposes and enter into any agreements required in connection therewith; and hold, use, and dispose of money or property for any authority purposes in accordance with the terms of the gift, grant, loan, or agreement relating thereto.

(i) Hold, control, and acquire by donation or purchase, and dispose of, any real or personal property, or any estate therein, within or outside the authority's boundaries, for any authority purpose.

(j) Lease as lessor or lessee to or from any person, public or private, any projects of the type that the authority is authorized to undertake and facilities or property of any nature for the use of the authority to carry out any of the purposes authorized by this act.

(k) Borrow money and issue bonds or other evidence of indebtedness as otherwise provided in this

act.

(l) Fix, collect, and enforce fees, rates, or other user charges for any service, program, or facility provided by the authority.

(m) Cooperate and contract with other governmental entities and, under an interlocal agreement with such an entity, undertake any project authorized in this act or that the contracting governmental entity is authorized to undertake and that furthers an authority purpose.

(n) Invest moneys received by the authority as is permitted by law or as provided in any resolution adopted by the board.

(o) Procure necessary insurance or self-insure.

(p) Establish such independent entities or affiliated entities, whether in the form of a not-for-profit corporation or other legal entity, for such purposes as the board considers necessary or appropriate to carry out its projects or to administer projects or funds for the benefit of all or any portion of the eligible county or any county contiguous therewith.

(q) Make grants of authority funds to the eligible county or any county contiguous therewith or to any municipality, or any other governmental unit in any such county if the grant furthers any purpose of the authority.

(r) Exercise all powers necessary, convenient, incidental, or proper in connection with any of the powers, duties, or purposes authorized by this act.

**History.**---s. 9, ch. 2000-348.

#### **189.439 Bonds.--**

##### **(1) AUTHORIZATION AND FORM OF BONDS.--**

(a) The authority may issue and sell bonds for any purpose for which the authority has the power to expend money, including, without limitation, the power to obtain working capital loans to finance the costs of any project and to refund any bonds or other indebtedness at the time outstanding at or before maturity. Bonds may be sold in the manner provided in s. 218.385 and may be authorized by resolution of the board.

(b) Bonds of the authority may reflect and evidence any form of financing structure that may become marketable from time to time, including, but not limited to, taxable or tax-exempt bonds; bonds that bear current interest, whether fixed or variable; bonds issued at an original issue discount or premium; capital appreciation bonds; bonds that are convertible, whether or not at the option of the holder, into a form of bonds differing from that in which they were originally issued; bonds that allow the holder to tender the bonds to the authority or its agent; bonds that are issued with separate call-option rights that may be sold by the authority at the time of issuance of the bonds or thereafter; and bonds of any type issued in connection with interest-rate swaps or other derivative products. Bonds may be sold in blocks or installments at different times, or an entire issue or series may be sold at the same time.

(c) The board may, by resolution, fix the aggregate maximum amount of bonds to be issued; the purpose or purposes for which the moneys derived therefrom may be expended, including, but not limited to, payment of costs of one or more projects; the rates of interest; the denominations of the bonds; whether or not the bonds are to be issued in one or more series; the dates of maturity, which may not exceed 40 years from the respective date of issuance; the medium of payment; the places within or outside the state where payment must be made; registration privileges;

redemption terms and privileges, whether with or without premium; the manner of execution; the form of the bonds, including any interest coupons to be attached thereto; the manner of execution of bonds and coupons; and any other terms, covenants, and conditions thereof and the establishment of revenue or other funds. The authorizing resolution may further provide for the contracts authorized by s. 159.825(1)(f) and (g), regardless of the tax treatment of the bonds being authorized. The authorizing resolution may further provide for an electronic-book-entry system of registration, or for certificated bonds. The seal of the authority may be affixed, lithographed, engraved, or otherwise reproduced in facsimile on the bonds.

(d) Any issue of bonds may be secured by a trust agreement by and between the authority and corporate trustees, which may be any trust company or bank having the powers of a trust company within or outside the state. Any provisions regarding the details or terms of any bonds that are required or permitted to be set forth in a resolution of the board may be set forth in a trust agreement with the same effect as if the provisions were set forth in a resolution of the board. The resolution authorizing the issuance of the bonds or the trust agreement may pledge any legally available revenues of the authority, including, without limitation, the proceeds of rental payments received by the authority, and may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as the board approves, including, without limitation, covenants authorized under subsection (4) and covenants setting forth the duties of the authority in relation to the acquisition, construction, reconstruction, improvement, maintenance, repair, operation, and insurance of any projects; the fixing and revising of the rates, fees, and charges; and the custody, safeguarding, and application of all moneys, and may contain provisions for the employment of engineers, accountants, and other consultants in connection with such acquisition, construction, reconstruction, improvement, maintenance, repair, or operation. It is lawful for any bank or trust company within or outside the state to act as a depository of the proceeds of bonds or of revenues and to furnish such indemnifying bonds or to pledge such securities as are required by the authority. The resolution or trust agreement may set forth the rights and remedies of the bondholders and of the trustee, if any, and may restrict the individual rights of action by bondholders. The board may provide for the payment of proceeds of the sale of the bonds and the revenues of any project to any officer, board, or depository that it designates for the custody thereof and may provide for the method of disbursement thereof with such safeguards and restrictions as it establishes. All expenses incurred in carrying out the provisions of the resolution or trust agreement may be treated as part of the cost of a project to which the trust agreement pertains or as part of the cost of the operation of the project.

(e) Bonds may be delivered by the authority as payment of the purchase price of any project or part thereof, or a combination of projects or parts thereof, or as the purchase price or exchange for any property, real, personal, or mixed, including franchises or services rendered by any contractor, engineer, or other person, all at one time or in blocks from time to time, in such manner and upon such terms as the board determines.

(f) Pending the preparation of definitive bonds, the board may issue interim certificates or receipts or temporary notes or bonds, in a form and with such provisions as the board establishes, exchangeable for definitive bonds when the bonds have been executed and are available for delivery. The board may also provide for the replacement of any bonds that become mutilated, lost, or destroyed.

(g) All bonds issued on behalf of the authority must state on the face thereof that they are payable, both as to principal and interest, solely from assets of the authority pledged therefor and do not constitute an obligation, either general or special, of the state or of any local government.

(2) **NEGOTIABILITY OF BONDS.**--Any bond issued under this act or any temporary bond, in the absence of an express recital on the face thereof that it is nonnegotiable, is fully negotiable and constitutes a negotiable instrument within the meaning and for all purposes of the law merchant and the laws of the state.

(3) **BONDS AS LEGAL INVESTMENT OR SECURITY.**--

(a) Notwithstanding any other law to the contrary, all bonds issued under this act constitute legal investments for savings banks, banks, trust companies, insurance companies, executors, administrators, trustees, guardians, and other fiduciaries and for any board, body, agency, instrumentality, county, municipality, or other political subdivision of the state.

(b) Any bonds issued by the authority are incontestable in the hands of bona fide purchasers or holders for value and are not invalid because of any irregularity or defect in the proceedings for the issue and sale thereof or because of any initiative or referendum taking place after the bonds are issued.

(4) COVENANTS.--Any resolution authorizing the issuance of bonds may contain any covenants the board finds advisable. All the covenants constitute valid and legally binding and enforceable contracts between the authority and the bondholders, regardless of the time of issuance thereof.

(5) ACT FURNISHES FULL AUTHORITY FOR ISSUANCE OF BONDS.--This act constitutes full authority for the issuance of bonds and the exercise of the powers of the authority. No procedures or proceedings, publications, notices, consents, approvals, orders, acts, or things by the board, or any board, officers, commission, department, agency, or instrumentality of the authority, other than those required by this act, are required to perform anything under this act, except that the issuance or sale of bonds under this act must comply with the general-law requirements applicable to the issuance or sale of bonds by the authority, including, but not limited to, s. 189.4085.

(6) PLEDGE BY THE STATE TO THE BONDHOLDERS OF THE AUTHORITY.--The state pledges to the holders of any bonds issued under this act that it will not limit or alter the rights of the authority to own, acquire, construct or reconstruct, improve, maintain, operate, or furnish the projects provided for in this act or hereafter and to fulfill the terms of any agreement made with the holders of the bonds or other obligations and that it will not in any way impair the rights or remedies of the holders.

History.--s. 10, ch. 2000-348; s. 23, ch. 2004-305.

**189.440 Tax exemption.**--The bonds and other obligations issued under this act, their transfer, and the income therefrom, including any profit made on the sale thereof, and all notes, mortgages, security agreements, letters of credit, or other instruments that arise from or are given to secure the repayment of bonds or other obligations issued under this act, are at all times free from taxation by the state or any unit of local government, political subdivision, or other instrumentality of the state. For purposes of excise taxes on documents, the provisions of s. 201.24 apply. The exemption granted by this section does not apply to any tax imposed by chapter 220 on interest, income, or profits on debt obligations owned by corporations.

History.--s. 11, ch. 2000-348.

**189.441 Contracts.**--Contracts for the construction of projects and for any other purpose of the authority may be awarded by the authority in a manner that will best promote free and open competition, including advertisement for competitive bids; however, if the authority determines that the purposes of this act will be more effectively served thereby, the authority may award or cause to be awarded contracts for the construction of any project, including design-build contracts, or any part thereof, or for any other purpose of the authority upon a negotiated basis as determined by the authority. Each contractor doing business with the authority and required to be licensed by the state or local general-purpose governments must maintain the license during the term of the contract with the authority. The authority may prescribe bid security requirements and other procedures in connection with the award of contracts which protect the public interest. The authority may, and in the case of a new professional sports franchise must, by written contract engage the services of the operator, lessee, sublessee, or purchaser, or prospective operator, lessee, sublessee, or purchaser, of any project in the construction of the project and may, and in the case of a new professional sports franchise must, provide in the contract that the lessee, sublessee, purchaser, or prospective lessee, sublessee, or purchaser, may act as an agent of, or an



independent contractor for, the authority for the performance of the functions described therein, subject to the conditions and requirements prescribed in the contract, including functions such as the acquisition of the site and other real property for the project; the preparation of plans, specifications, financing, and contract documents; the award of construction and other contracts upon a competitive or negotiated basis; the construction of the project, or any part thereof, directly by the lessee, purchaser, or prospective lessee or purchaser; the inspection and supervision of construction; the employment of engineers, architects, builders, and other contractors; and the provision of money to pay the cost thereof pending reimbursement by the authority. Any such contract may, and in the case of a new professional sports franchise must, allow the authority to make advances to or reimburse the lessee, sublessee, or purchaser, or prospective lessee, sublessee, or purchaser for its costs incurred in the performance of those functions, and must set forth the supporting documents required to be submitted to the authority and the reviews, examinations, and audits that are required in connection therewith to assure compliance with the contract.

**History.**--s. 12, ch. 2000-348; s. 59, ch. 2002-20.

**189.442 Sale or lease of property.**--The authority may sell or lease property of the authority or grant operating agreements for any project of the authority in a manner that will best promote free and open competition, including advertisement for competitive bids; however, if the authority determines that the purposes of this act will be more effectively served, the authority may sell or lease property of the authority upon a negotiated basis or for no or nominal consideration. Notwithstanding any other law, the authority may sell or lease property of the authority in a transaction in which the authority leases the property back from its purchaser or lessee. To facilitate the development of a project by an authority, any governmental entity or other unit of local government may sell or lease its property to an authority upon a negotiated basis, without competitive bid, and for no or nominal consideration, and an authority may resell or sublease or grant an operating agreement for the property to a professional sports franchise in the same manner.

**History.**--s. 13, ch. 2000-348.

**189.443 Damages arising out of tort.**--Any suit or action brought or maintained against the authority for damages arising out of tort are subject to the limitations provided in s. 768.28, and any claim must be presented in writing to the board.

**History.**--s. 14, ch. 2000-348.

**189.444 Dissolution.**--

(1) Once an authority has been established, its existence is not affected by any subsequent reduction in population in the eligible county. Subject to subsection (2), an authority may be dissolved only by unanimous resolution of the board and approval of the resolution by the Governor or in the manner provided in this chapter; provided, however, that an authority shall be dissolved automatically upon the fifth anniversary of the date it was established in the event that construction has not commenced on any project, including a professional sports facility or other related amenities and infrastructure.

(2) A dissolution may not become effective unless arrangements have been made for the full assumption of all governmental services then being provided by the authority, and for the transfer and allocation of revenue, property, and indebtedness of the authority. If any bonds or other obligations of the authority are outstanding, any act of the Legislature dissolving the authority shall set forth the proposed arrangements under which holders of the outstanding obligations will be immediately paid or will continue to be paid, which arrangements must be consistent with the terms of the outstanding obligations. Any resolution of the board or legislative act dissolving the authority must specify the effective date of the dissolution. Neither the consent of the eligible county nor the consent of any county contiguous therewith is required to dissolve an authority.



**History.--s. 15, ch. 2000-348.**

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