

Chapter 21A - CAPITAL PROJECT AND SERVICE ASSESSMENTS

*Editor's Note—Ord. No. 1871-17 adopted May 17, 2017 created Chapter 21A to read as herein set out in <sec><sec> 21A-1--21A-38.

ARTICLE I - INTRODUCTION

Sec. 21A-1 Definitions.

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

Annual Rate Resolution means the resolutions described in Sections 21A-17 and 21A-26 hereof, approving an Assessment Roll for a specific Fiscal Year.

Assessed Property means all parcels of land included on the Assessment Roll that receive a special benefit from the delivery of the service, facility or program or provision of a Local Improvement identified in the Initial Assessment Resolution.

Assessment means a special assessment imposed by the City pursuant to this Chapter to fund the Capital Cost or Project Cost, if obligations are issued, of Local Improvements or the Service Cost of services that provide a special benefit to property as a consequence of a logical relationship to the value, use, or characteristics of property identified in an Initial Assessment Resolution. The term "Assessment" shall include Capital Assessments and Service Assessments.

Assessment Area means any of the areas created by resolution of the City Council pursuant to Section 21A-4 hereof, that specially benefit from a Local Improvement or service, facility, or program.

Assessment Roll means the special assessment roll relating to an Assessment approved by a Final Assessment Resolution pursuant to Section 21A-15 or Section 21A-24 hereof or an Annual Rate Resolution pursuant to Section 21A-17 or Section 21A-26 hereof.

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

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

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

Capital Assessment means a special assessment imposed by the City pursuant to this Chapter to fund the Capital Cost or Project Cost, if obligations are issued, of Local Improvements that provide a special benefit to property as a consequence of a logical relationship to the value, use, or characteristics of property identified in an Initial Assessment Resolution.

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

City means the City of Punta Gorda, Florida.

City Council means the governing body of the City of Punta Gorda, Florida.

City Manager means the chief administrative officer of the City, or such person's designee.

County means Charlotte County, Florida.

Final Assessment Resolution means the resolutions described in Sections 21A-15 and 21A-24 hereof which shall confirm, modify, or repeal the Initial Assessment Resolution and which shall be the final proceeding for the imposition of an Assessment.

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

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

Initial Assessment Resolution means the resolutions described in Sections 21A-11

and 21A-20 hereof which shall be the initial proceeding for the identification of the service, facility, program, or Local Improvement for which an Assessment is to be made and for the imposition of an Assessment.

Local Improvement means a capital improvement constructed or installed by the City for the special benefit of a neighborhood or other Assessment Area.

Maximum Assessment Rate means the maximum rate of assessment established by the Final Assessment Resolution for the service, facility, program, or Local Improvement identified in the Initial Assessment Resolution.

Obligations means bonds or other evidence of indebtedness including but not limited to, notes, commercial paper, capital leases, reimbursable advances by the City, or any other obligation issued or incurred to finance any portion of the Project Cost of Local Improvements and secured, in whole or in part, by proceeds of the Assessments.

Ordinance means the Master Capital Project and Service Assessment Ordinance, as it may be amended from time-to-time.

Owner shall mean the Person reflected as the owner of Assessed Property on the Tax Roll.

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

Pledged Revenue means, as to any series of Obligations, (A) the proceeds of such Obligations, including investment earnings, (B) proceeds of the Assessments pledged to secure the payment of such Obligations, and (C) any other legally available non-ad valorem revenue pledged, at the City Council's sole option, to secure the payment of such Obligations, as specified by the ordinance or resolution authorizing such Obligations.

Preliminary Rate Resolution means the resolutions described in Section 21A-17 hereof initiating the annual process for updating the annual Assessment Roll and directing the reimposition of Service Assessments pursuant to an Annual Rate Resolution.

Project Cost means (A) the Capital Cost of a Local Improvement, (B) the Transaction Cost associated with the Obligations which financed the Local Improvement, (C) interest accruing on such Obligations for such period of time as the City Council deems appropriate, (D) the debt service reserve fund or account, if any, established for the Obligations which financed the Local Improvement, and (E) any other costs or expenses related thereto.

Property Appraiser means the Property Appraiser of Charlotte County.

Service Assessment means a special assessment imposed by the City pursuant to this Chapter to fund the Service Cost of services that provide a special benefit to property as a consequence of a logical relationship to the value, use, or characteristics of property identified in an Initial Assessment Resolution.

Service Cost means the amount necessary in any Fiscal Year to fund the provision of a defined service, facility, or program which provides a special benefit to Assessed Property, and can include, but not be limited to:

- (a) The cost of physical construction, reconstruction or completion of any required facility or improvement;
- (b) The costs incurred in any required acquisition or purchase;
- (c) The cost of all labor, materials, machinery, and equipment;
- (d) The cost of fuel, parts, supplies, maintenance, repairs, and utilities;
- (e) The cost of computer services, data processing, and communications;
- (f) The cost of all lands and interest therein, leases, property rights, easements, and franchises of any nature whatsoever;
- (g) The cost of any indemnity or surety bonds and premiums for insurance;
- (h) The cost of salaries, volunteer pay, workers' compensation insurance, or other employment benefits;
- (i) The cost of uniforms, training, travel, and per diem;
- (j) The cost of construction plans and specifications, surveys and estimates of costs;
- (k) The cost of engineering, financial, legal, and other professional services;
- (l) The costs of compliance with any contracts or agreements entered into by the City relating to the provision of said services;
- (m) All costs associated with the structure, implementation, collection, and enforcement of the Assessments, including any service charges of the Clerk, Tax Collector, or Property Appraiser, and delinquent amounts from prior impositions, and amounts necessary to off-set discounts received for early payment of Assessments pursuant to the Uniform Assessment Collection Act or for early payment of Assessments collected pursuant to Section 21A-28 herein;
- (n) All other costs and expenses necessary or incidental to the acquisition, provision, or construction of the service, facility, or program to be funded by the Assessment, and such other expenses as may be necessary or incidental to any related financing authorized by the City Council by subsequent resolution;
- (o) An amount for contingencies and anticipated delinquencies and uncollectible Assessments; and
- (p) Reimbursement to the City or any other Person for any moneys advanced for any costs incurred by the City or such Person in connection with any of the foregoing items of Service Cost.

Tax Collector means the Tax Collector of Charlotte County.

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

Transaction Cost means the costs, fees and expenses incurred by the City in connection with the issuance and sale of any series of Obligations, including but not limited to (A) rating agency and other financing fees; (B) the fees and disbursements of bond counsel; (C) the underwriters' discount; (D) the fees and disbursements of the City's financial advisor; (E) the costs of preparing and printing the Obligations, the preliminary official statement, the final official statement, and all other documentation supporting issuance of the Obligations; (F) the fees payable in respect of any municipal bond insurance policy; (G) administrative, development, credit review, and all other fees associated with any pooled commercial paper or similar interim financing program; and (H) any other costs of a similar nature incurred in connection with issuance of such Obligations.

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

Sec. 21A-2. Interpretation.

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

Sec. 21A-3. Findings.

It is hereby ascertained, determined, and declared that:

- (a) Pursuant to Article VIII, section 2(b), Florida Constitution, and sections 166.021 and 166.041, Florida Statutes, the City has all powers of local self-government to perform municipal functions and to render municipal services in a manner not inconsistent with law and such power may be exercised by the enactment of city ordinances.
- (b) The Assessments to be imposed pursuant to this Chapter shall constitute non-ad valorem assessments within the meaning and intent of the Uniform Assessment Collection Act.
- (c) The Assessments to be imposed pursuant to this Chapter are imposed by the

City Council, not the County, Property Appraiser or Tax Collector. The duties of the Property Appraiser and Tax Collector under the Uniform Assessment Collection Act are ministerial.

- (d) The purpose of this Chapter is to: (1) provide procedures and standards for the imposition of Assessments within the City by resolution under the general home rule powers of a municipality to impose special assessments, and (2) authorize a procedure for the funding of public services, facilities, programs, or Local Improvements providing special benefit to subsequently identified property within the City.
- (e) This Chapter is intended to implement the authority granted to the City Council in Article VI of the Punta Gorda City Charter for the provision of capital improvements and services to be funded by special assessments.

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ARTICLE II - GENERAL PROVISIONS

Sec. 21A-4. Creation of Assessment Areas.

The City Council is hereby authorized to create Assessment Areas in accordance with the procedures set forth herein to include property located within the incorporated area of the City that is specially benefitted by the services, facilities, programs, or Local Improvements proposed for funding from the proceeds of Assessments to be imposed therein.

Either the Initial Assessment Resolution proposing each Assessment Area or the Final Assessment Resolution creating each Assessment Area shall include brief descriptions of the proposed services, facilities, programs, or Local Improvements, a description of the property to be included within the Assessment Area, and specific legislative findings that recognize the special benefit to be provided by each proposed service, facility, program, or Local Improvements to property within the Assessment Area.

Sec. 21A-5. Revisions to Assessments.

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

Sec. 21A-6. Procedural Irregularities.

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

Sec. 21A-7. Correction of Errors and Omissions.

- (a) No act of error or omission on the part of the Property Appraiser, Tax Collector, City Manager, City Council, their deputies, employees, or designees, shall operate to release or discharge any obligation for payment of an Assessment imposed by the City Council under the provision of this Chapter.
- (b) When it shall appear that any Assessment should have been imposed under this Chapter against a lot or parcel of property specially benefited by the provision of a service, facility, program, or Local Improvement, but such property was omitted from the Assessment Roll, the City Council may, upon provision of appropriate notice as set forth in this Article, impose the applicable Assessment for the Fiscal Year in which such error is discovered, in addition to the applicable Assessment due for the prior two Fiscal Years. Such total Assessment shall become delinquent if not fully paid upon the expiration of 60 days from the date of the adoption of said resolution. The Assessment so imposed shall constitute a lien against such property equal in rank and dignity with the liens of all state, county, district, or municipal taxes and special assessments, and superior in rank and dignity to all other prior liens, mortgages, titles and claims in and to or against the real property involved and may be collected as provided in Article V hereof.
- (c) The City Manager shall have the authority at any time, upon his or her own initiative or in response to a timely filed petition from the Owner of any Assessed Property, to correct any error in applying the Assessment apportionment method to any particular property not otherwise requiring the provision of notice pursuant to the Uniform Assessment Collection Act. Any such correction that reduces an Assessment shall be considered valid ab initio and shall in no way affect the enforcement of the Assessment imposed under the provisions of this Chapter. Any such correction which increases an Assessment or imposes an Assessment on omitted property shall first require notice to the affected owner in the manner described in Sections 21A-14 and 21A-23 hereof, as applicable, providing the date, time and place that the City Council will consider confirming the correction and offering the owner an opportunity to be heard. All requests from affected property owners for any such changes, modifications or corrections shall be referred to, and processed by, the City Manager and not the Property Appraiser or Tax Collector.
- (d) After the Assessment Roll has been delivered to the Tax Collector in accordance with the Uniform Assessment Collection Act, any changes, modifications, or corrections thereto shall be made in accordance with the procedures applicable to correcting errors and insolvencies on the Tax Roll upon timely written request and direction of the City Manager.

Sec. 21A-8. Lien of Assessments.

Upon the adoption of the Assessment Roll, all Assessments shall constitute a lien against such property equal in rank and dignity with the liens of all state, county, district, or municipal taxes and special assessments. Except as otherwise provided by law, such lien shall be superior in dignity to all other prior liens, mortgages, titles, and claims, until paid.

The lien for an Assessment shall be deemed perfected upon adoption by the City Council of the Final Assessment Resolution or the Annual Rate Resolution, whichever is applicable. The lien for an Assessment collected under the Uniform Assessment Collection Act shall attach to the property as provided by law. The lien for an Assessment collected under the alternative method of collection provided in Section 21A-28 shall be deemed perfected upon adoption by the City Council of the Final Assessment Resolution or the Annual Rate Resolution, whichever is applicable, and shall attach to the property on such date of adoption.

Sec. 21A-9. Authorization for Exemptions and Hardship Assistance.

- (a) The City Council, in its sole discretion, shall determine whether to provide exemptions from payment of an Assessment for Government Property or other property whose use is wholly or partially exempt from ad valorem taxation under Florida law.
- (b) The City Council, in its sole discretion, shall determine whether to provide a program of hardship assistance, either through monetary contributions or extended payment terms, to City residents who are living below or close to the poverty level and are at risk of losing title to their homes as a result of the imposition of an Assessment.
- (c) The City Council shall designate the funds available to provide any exemptions or hardship assistance. The provision of an exemption or hardship assistance in any one year shall in no way establish a right or entitlement to such exemption or assistance in any subsequent year and the provision of funds in any year may be limited to the extent funds are available and appropriated by the City Council. Any funds designated for exemptions or hardship assistance shall be paid by the City from funds other than those generated by the Assessment.
- (d) Any shortfall in the expected Assessment proceeds due to any hardship assistance or exemption from payment of the Assessments required by law or authorized by the City Council shall be supplemented by any legally available funds, or combination of such funds, and shall not be paid for by proceeds or funds derived from the Assessments. In the event a court of competent jurisdiction determines any exemption or reduction by the City

Council is improper or otherwise adversely affects the validity of the Assessment imposed for any Fiscal Year, the sole and exclusive remedy shall be the imposition of an Assessment upon each affected Tax Parcel in the amount of the Assessment that would have been otherwise imposed save for such reduction or exemption afforded to such Tax Parcel by the City Council.

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ARTICLE III - SERVICE ASSESSMENTS

Sec. 21A-10. General Authority.

- (a) The City Council is hereby authorized to impose an annual Service Assessment to fund all or any portion of the Service Cost on benefitted property at a rate of assessment based on the special benefit accruing to such property from the City's provision of the subsequently identified service, facility, or program.
- (b) The amount of the Service Assessment that is imposed each Fiscal Year against each parcel of Assessed Property shall be determined pursuant to an apportionment methodology based upon a classification of property designed to provide a fair and reasonable apportionment of the Service Cost among properties on a basis reasonably related to the special benefit provided by the service, facility, or program funded with assessment proceeds.
- (c) Nothing contained in this Chapter shall be construed to require the imposition of Assessments against Government Property.
- (d) All Service Assessments shall be imposed in conformity with the procedures set forth in this Article III.

Sec. 21A-11. Initial Assessment Resolution.

The first step for the initial imposition of a Service Assessment shall be the City Council's adoption of an Initial Assessment Resolution:

- (a) Describing the property to be located within any proposed Assessment Area;
- (b) Containing a brief and general description of the services, facilities, or programs to be provided;
- (c) Determining the Service Cost to be assessed;
- (d) Describing the method of apportioning the Service Cost and the computation of the Assessments for specific properties;
- (e) Establishing an estimated assessment rate for the upcoming Fiscal Year;
- (f) Establishing a Maximum Assessment Rate, if desired by the City Council;
- (g) Authorizing the date, time, and place of a public hearing to consider the adoption of the Final Assessment Resolution for the upcoming Fiscal Year; and
- (h) Directing the City Manager to:
 - (1) Prepare the initial Assessment Roll, as required by Section 21A-12 hereof,
 - (2) Publish the notice required by Section 21A-13 hereof, and

(3) Mail the notice required by Sections 21A-14 hereof.

Sec. 21A-12. Service Assessment Roll.

- (a) The City Manager shall prepare, or direct the preparation of, the initial Assessment Roll for the Service Assessments, which shall contain the following:
 - (1) A summary description of all Assessed Property conforming to the description contained on the Tax Roll.
 - (2) The name of the Owner of the Assessed Property.
 - (3) The number of Assessment Units attributable to each parcel.
 - (4) The amount of the Service Assessment to be imposed against each Assessed Property.
- (b) Copies of the Initial Assessment Resolution and the preliminary Assessment Roll shall be available in the office of the City Clerk and open to public inspection. The foregoing shall not be construed to require that the Assessment Roll be in printed form if the amount of the Service Assessment for each parcel of property can be determined by use of a computer terminal available to the public.

Sec. 21A-13. Notice by Publication.

Upon completion of the initial Assessment Roll and each year thereafter, the City Manager shall publish notice of a public hearing to adopt the Final Assessment Resolution and approve the aforementioned initial Assessment Roll. The published notice shall conform to the requirements set forth in the Uniform Assessment Collection Act.

Sec. 21A-14. Notice by Mail.

- (a) For the initial Fiscal Year in which a Service Assessment is imposed by the City Council against Assessed Property pursuant to the Uniform Assessment Collection Act and in addition to the published notice required by Section 21A-13, the City Manager shall provide notice of the proposed Service Assessment by first class mail to the owner of each parcel of property subject to a Service Assessment.
- (b) The mailed notice shall conform to the requirements set forth in the Uniform Assessment Collection Act.
- (c) Notice shall be deemed mailed upon delivery thereof to the possession of the United States Postal Service. Failure of the Owner to receive such notice due to mistake or inadvertence, shall not affect the validity of the Assessment Roll nor release or discharge any obligation for payment of a

Service Assessment imposed by the City Council pursuant to this Chapter.

- (d) Notice by mail for Fiscal Years after the initial Fiscal Year shall be controlled by Section 21A-17(F) hereof.

Sec. 21A-15. Final Assessment Resolution.

- (a) The last step for the imposition of a Service Assessment for the initial Fiscal Year shall be the City Council's adoption of a Final Assessment Resolution.
- (b) At the time named in the notices required by Sections 21A-13 and 21A-14 or to such time as an adjournment or continuance may be taken by the City Council, the City Council shall receive any written objections of interested persons and may then, or at any subsequent meeting of the City Council, adopt the Final Assessment Resolution which shall (A) create any Assessment Area; (B) confirm, modify, or repeal the Initial Assessment Resolution with such amendments, if any, as may be deemed appropriate by the City Council; (C) establish the Maximum Assessment Rate, if desired by the City Council and set the rate of assessment to be imposed in the upcoming fiscal year; (D) approve the initial Assessment Roll, with such amendments as it deems just and right; and (E) determine the method of collection.
- (c) All parcels assessed shall derive a special benefit from the service, facility, or program to be provided or constructed and the Service Assessment shall be fairly and reasonably apportioned among the properties that receive the special benefit.
- (d) All objections to the Final Assessment Resolution shall be made in writing, and filed with the City Manager at or before the time or adjourned time of such hearing.
- (e) The Final Assessment Resolution shall constitute the Annual Rate Resolution for the initial Fiscal Year in which Assessments are imposed or reimposed hereunder.

Sec. 21A-16. Effect of Final Assessment Resolution.

The Service Assessments for the initial Fiscal Year shall be established upon adoption of the Final Assessment Resolution. The adoption of the Final Assessment Resolution shall be the final adjudication of the issues presented (including, but not limited to, the method of apportionment and assessment, the Maximum Assessment Rate, the initial rate of assessment, the initial Assessment Roll, and the levy and lien of the Service Assessments), unless proper steps are initiated in a court of competent jurisdiction to secure relief within 20 days from the date of City Council action on the Final Assessment

Resolution. The initial Assessment Roll, as approved by the Final Assessment Resolution, shall be delivered to the Tax Collector, or the Property Appraiser if so directed by the Tax Collector, or if an alternative method is used to collect the Service Assessments, such other official as the City Council by resolution shall designate.

Sec. 21A-17. Subsequent Year Adoption Procedures.

- (a) Annually, during the budget adoption process, the City Council shall determine whether to re-impose a Service Assessment for each Fiscal Year following the initial Fiscal Year. If the City Council elects to re-impose a Service Assessment, the procedures in this Section 21A-17 shall be followed.

- (b) The first step for the re-imposition of an annual Service Assessment after the initial Fiscal Year shall be the adoption of a Preliminary Rate Resolution by the City Council:
 - (1) Containing a brief and general description of the services, facilities, or programs to be provided;
 - (2) Determining the Service Cost to be assessed for the upcoming Fiscal Year;
 - (3) Establishing the estimated assessment rate for the upcoming Fiscal Year;
 - (4) Establishing or increasing a Maximum Assessment Rate, if desired by the City Council;
 - (5) Authorizing the date, time, and place of a public hearing to receive and consider comments from the public and consider the adoption of the Annual Rate Resolution for the upcoming Fiscal Year; and
 - (6) Directing the City Manager to
 - i. Update the Assessment Roll,
 - ii. Provide notice by publication and first class mail to affected Owners in the event circumstances described in subsection (F) of this Section so require, and
 - iii. Directing and authorizing any supplemental or additional notice deemed proper, necessary or convenient by the City.

- (c) The second step for the reimposition of an annual Service Assessment after the initial Fiscal Year shall be the adoption of an Annual Rate Resolution by the City Council. At the public hearing established in the Preliminary Rate Resolution or to which an adjournment or continuance may be taken by the City Council, the City Council shall receive any oral or written objections of interested persons and may then, or at any subsequent meeting of the City Council, adopt the Annual Rate Resolution, which shall (1) establish the rate of assessment to be imposed in the upcoming Fiscal Year and (2) approve the Assessment Roll for the

upcoming Fiscal Year with such adjustments as the City Council deems just and right. The Assessment Roll shall be prepared in accordance with the method of apportionment set forth in the Initial Assessment Resolution, or any subsequent Preliminary Rate Resolution, together with modifications, if any, that are provided and confirmed in the Final Assessment Resolution or any subsequent Annual Rate Resolution.

- (d) Nothing herein shall preclude the City Council from providing annual notification to all Owners of Assessed Property in the manner provided in Sections 21A-13 and 21A-14 or any other method as provided by law.
- (e) The City Council may establish or increase a Maximum Assessment Rate in an Initial Assessment Resolution or Preliminary Rate Resolution and confirm such Maximum Assessment Rate in the Final Assessment Resolution or Annual Rate Resolution in the event notice of such Maximum Rate Assessment has been included in the notices required by Section 21A-13 and 21A-14.
- (f) In the event (1) the proposed Assessment for any Fiscal Year exceeds the rates of assessment adopted by the City Council, including a Maximum Assessment Rate, if any, that were listed in the notices previously provided to the Owners of Assessed Property, (2) the purpose for which the Assessment is imposed or the use of the revenue from the Assessment is substantially changed from that represented by notice previously provided to the Owners of Assessed Property, (3) Assessed Property is reclassified or the method of apportionment is revised or altered resulting in an increased Assessment from that represented by notice previously provided to the Owners of Assessed Property, or (4) an Assessment Roll contains Assessed Property that was not included on the Assessment Roll approved for the prior Fiscal Year, notice shall be provided by publication and first class mail to the Owners of such Assessed Property as provided by law. Such notice shall substantially conform with the notice requirements set forth in Sections 21A-13 and 21A-14 and inform the Owner of the date, time, and place for the adoption of the Annual Rate Resolution. The failure of the Owner to receive such notice due to mistake or inadvertence, shall not affect the validity of the Assessment Roll nor release or discharge any obligation for payment of a Service Assessment imposed by the City Council pursuant to this Chapter.
- (g) As to any Assessed Property not included on an Assessment Roll approved by the adoption of the Final Assessment Resolution or a prior year's Annual Rate Resolution, the adoption of the succeeding Annual Rate Resolution shall be the final adjudication of the issues presented as to such Assessed Property (including, but not limited to, the determination of special benefit and fair apportionment to the Assessed Property, the method of apportionment and assessment, the rate of assessment, the establishment or increase of a Maximum Assessment Rate, the Assessment

Roll, and the levy and lien of the Assessments), unless proper steps shall be initiated in a court of competent jurisdiction to secure relief within 20 days from the date of the City Council action on the Annual Rate Resolution. Nothing contained herein shall be construed or interpreted to affect the finality of any Assessment not challenged within the required 20-day period for those Assessments previously imposed against Assessed Property by the inclusion of the Assessed Property on an Assessment Roll approved in the Final Assessment Resolution or any subsequent Annual Rate Resolution.

- (h) The Assessment Roll, as approved by the Annual Rate Resolution, shall be delivered to the Tax Collector as required by the Uniform Assessment Collection Act, or if the alternative method described in Section 21A-28 is used to collect the Assessments, such other official as the City Council by resolution shall designate. If the Assessment against any property shall be sustained, reduced, or abated by the court, an adjustment shall be made on the Assessment Roll.

Sec. 21A-18. Interim Service Assessments.

- (a) An interim Service Assessment may be imposed against all property, for which a Certificate of Occupancy is issued, after adoption of the Annual Rate Resolution. The amount of the interim Service Assessment shall be calculated upon a monthly rate, which shall be one-twelfth of the annual rate for such property computed in accordance with the Annual Rate Resolution for the Fiscal Year for which the interim Service Assessment is being imposed. Such monthly rate shall be imposed for each full calendar month remaining in the Fiscal Year. In addition to the monthly rate, the interim Service Assessment may also include an estimate of the subsequent Fiscal Years' Service Assessment.
- (b) No Certificate of Occupancy shall be issued until full payment of the interim Service Assessment is received by the City. Issuance of the Certificate of Occupancy without the payment in full of the interim Service Assessment shall not relieve the Owner of such property of the obligation of full payment. Any interim Service Assessment not collected prior to the issuance of the Certificate of Occupancy may be collected pursuant to the Uniform Assessment Collection Act as provided in Section 21A-27 of this Chapter or by any other method authorized by law. Any interim Service Assessment shall be deemed due and payable on the date the Certificate of Occupancy was issued and shall constitute a lien against such property as of that date. Said lien shall be equal in rank and dignity with the liens of all state, county, district or municipal taxes and special assessments, and superior in rank and dignity to all other liens, encumbrances, titles and claims in and to or against the real property involved and shall be deemed perfected upon the issuance of the Certificate of Occupancy.

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ARTICLE IV - CAPITAL ASSESSMENTS

Sec. 21A-19. General Authority.

- (a) The City Council is hereby authorized to impose Capital Assessments against property located within an Assessment Area to fund all or any portion of the Capital Cost or Project Cost, if obligations are issued, of Local Improvements based on the special benefit accruing to such property from the City's provision of the subsequently identified Local Improvement.
- (b) The amount of the Capital Assessment shall be computed in a manner that fairly and reasonably apportions the Capital Cost or Project Cost, if obligations are issued, among the parcels of property within the Assessment Area based upon objectively determinable Assessment Units and reasonably related to the special benefit provided by the Local Improvement.
- (c) Nothing contained in this Chapter shall be construed to require the imposition of Capital Assessments against Government Property.
- (d) All Capital Assessments shall be imposed in conformity with the procedures set forth in this Article IV.

Sec. 21A-20. Initial Assessment Resolution.

The first step for the initial imposition of a Capital Assessment shall be the City Council's adoption of an Initial Assessment Resolution:

- (a) Describing the property to be located within the proposed Assessment Area;
- (b) Containing a brief and general description of the Local Improvements to be provided;
- (c) Determining the Capital Cost or Project Cost to be assessed for Local Improvements;
- (d) Describing the method of apportioning the Capital Cost or Project Cost and the computation of the Capital Assessments for specific properties;
- (e) Establishing an estimated assessment rate for the upcoming Fiscal Year;
- (f) Describe the provisions, if any, for acceleration and prepayment of the Capital Assessment;
- (g) Describe the provisions, if any, for reallocating the Capital Assessment upon future subdivision;
- (h) Establishing a Maximum Assessment Rate, if desired by the City Council;
- (i) Authorizing the date, time, and place of a public hearing to consider the adoption of the Final Assessment Resolution for the upcoming Fiscal Year; and
- (j) Directing the City Manager to:
 - (1) Prepare the initial Assessment Roll, as required by Section 21A-21 hereof,

- (2) Publish the notice required by Section 21A-22 hereof, and
- (3) Mail the notice required by Sections 21A-23 hereof.

Sec. 21A-21. Capital Assessment Roll.

- (a) The City Manager shall prepare, or direct the preparation of, the initial Assessment Roll for Capital Assessments, which shall contain the following:
 - (1) A summary description of all Assessed Property conforming to the description contained on the Tax Roll.
 - (2) The name of the Owner of the Assessed Property.
 - (3) The number of Assessment Units attributable to each parcel.
 - (4) The amount of the Capital Assessment to be imposed against each Assessed Property.
- (b) Copies of the Initial Assessment Resolution and the preliminary Assessment Roll shall be available in the office of the City Clerk and open to public inspection. The foregoing shall not be construed to require that the Assessment Roll be in printed form if the amount of the Capital Assessment for each parcel of property can be determined by use of a computer terminal available to the public.

Sec. 21A-22. Notice by Publication.

Upon completion of the initial Assessment Roll and each year thereafter, the City Manager shall publish notice of a public hearing to adopt the Final Assessment Resolution and approve the aforementioned initial Assessment Roll. The published notice shall conform to the requirements set forth in the Uniform Assessment Collection Act.

Sec. 21A-23. Notice by Mail.

- (a) For the initial Fiscal Year in which a Capital Assessment is imposed by the City Council against Assessed Property pursuant to the Uniform Assessment Collection Act and in addition to the published notice required by Section 21A-22, the City Manager shall provide notice of the proposed Capital Assessment by first class mail to the owner of each parcel of property subject to a Capital Assessment.
- (b) The mailed notice shall conform to the requirements set forth in the Uniform Assessment Collection Act.
- (c) Notice shall be deemed mailed upon delivery thereof to the possession of the United States Postal Service. Failure of the Owner to receive such notice due to mistake or inadvertence, shall not affect the validity of the Assessment Roll nor release or discharge any obligation for payment of a

Capital Assessment imposed by the City Council pursuant to this Chapter.

- (d) Notice by mail for Fiscal Years after the initial Fiscal Year shall be controlled by Section 21A-26(B) hereof.

Sec. 21A-24. Final Assessment Resolution.

- (a) The last step for the imposition of a Capital Assessment for the initial Fiscal Year shall be the City Council's adoption of a Final Assessment Resolution.
- (b) At the time named in the notices required by Sections 21A-22 and 21A-23 or to such time as an adjournment or continuance may be taken by the City Council, the City Council shall receive any written objections of interested persons and may then, or at any subsequent meeting of the City Council, adopt the Final Assessment Resolution which shall (A) create any Assessment Area; (B) confirm, modify, or repeal the Initial Assessment Resolution with such amendments, if any, as may be deemed appropriate by the City Council; (C) establish the maximum amount of the Capital Assessment for each Assessment Unit and levy the rate of assessment for the upcoming Fiscal Year; (D) approve the initial Assessment Roll, with such amendments as it deems just and right; and (E) determine the method of collection.
- (c) All parcels assessed shall derive a special benefit from the Local Improvement to be provided or constructed and the Capital Assessment shall be fairly and reasonably apportioned among the properties that receive the special benefit.
- (d) All objections to the Final Assessment Resolution shall be made in writing, and filed with the City Manager at or before the time or adjourned time of such hearing.
- (e) The Final Assessment Resolution shall constitute the Annual Rate Resolution for the initial Fiscal Year in which Assessments are imposed or reimposed hereunder.

Sec. 21A-25. Effect of Final Assessment Resolution.

The Capital Assessments for the initial Fiscal Year shall be established upon adoption of the Final Assessment Resolution. The adoption of the Final Assessment Resolution shall be the final adjudication of the issues presented (including, but not limited to, the method of apportionment and assessment, the initial rate of assessment, the initial Assessment Roll, and the levy and lien of the Capital Assessments), unless proper steps are initiated in a court of competent jurisdiction to secure relief within 20 days from the date of City Council action on the Final Assessment Resolution. The initial Assessment Roll, as approved by the Final Assessment Resolution, shall be delivered to the Tax Collector, or the Property Appraiser if so directed by the Tax Collector, or if an alternative method is used to collect the Capital Assessments, such other official as the City Council by resolution shall designate.

Sec 21A-26. Subsequent Year Adoption Procedures.

- (a) Annually, during the budget adoption process, the City Council shall adopt an Annual Rate Resolution for each Fiscal Year in which Capital Assessments will be imposed to fund the Capital Cost or Project Cost of a Local Improvement. The Annual Rate Resolution shall (1) establish the rate of assessment to be imposed in the upcoming Fiscal Year and (2) approve the Assessment Roll for the upcoming Fiscal Year with such adjustments as the City Council deems just and right. The Assessment Roll shall be prepared in accordance with the method of apportionment set forth in the Initial Assessment Resolution, as confirmed or amended by the Final Assessment Resolution. Failure to adopt an Annual Assessment Resolution during the budget adoption process for a Fiscal Year may be cured at any time.
- (b) In the event (1) the proposed Capital Assessment for any Fiscal Year exceeds the Maximum Assessment Rate included in notice previously provided to the Owners of Assessed Property, (2) the purpose for which the Capital Assessment is imposed is substantially changed from that represented by notice previously provided to the Owners of Assessed Property, (3) Assessed Property is reclassified or the method of apportionment is revised or altered resulting in an increased Capital Assessment from that represented by notice previously provided to the owners of Assessed Property, or (4) an Assessment Roll contains Assessed Property that was not included on the Assessment Roll approved for the prior Fiscal Year, notice shall be provided by publication and first class mail to the Owner of such Assessed Property as provided by law. Such notice shall substantially conform with the notice requirements set forth in Sections 21A-22 and 21A-23 and inform the Owners of the date, time and place for the adoption of the Annual Rate Resolution. The failure of an Owner to receive such supplemental notice due to mistake or inadvertence, shall not affect the validity of the Assessment Roll nor release or discharge any obligation for payment of a Capital Assessment imposed by the City Council pursuant to this Chapter.
- (c) As to any Assessed Property not included on an Assessment Roll approved by the adoption of the Final Assessment Resolution or a prior year's Annual Rate Resolution, the adoption of the succeeding Annual Rate Resolution shall be the final adjudication of the issues presented as to such Assessed Property (including, but not limited to, the determination of special benefit and fair apportionment to the assessed Property, the method of apportionment and assessment, the rate of assessment, the establishment or increase of a Maximum Assessment Rate, the Assessment Roll, and the levy and lien of the Assessments), unless proper steps shall be initiated in a court of competent jurisdiction to secure relief within 20 days from the date of the City Council action on the Annual Rate

Resolution. Nothing contained herein shall be construed or interpreted to affect the finality of any Assessment not challenged within the required 20-day period for those Assessments previously imposed against Assessed Property by the inclusion of the Assessed Property on an Assessment Roll approved in the Final Assessment Resolution or any subsequent Annual Rate Resolution.

- (d) The Assessment Roll, as approved by the Annual Rate Resolution, shall be delivered to the Tax Collector as required by the Uniform Assessment Collection Act, or the Property Appraiser if so directed by the Tax Collector, or if an alternative method described in Section 21A-28 is used to collect the Capital Assessments, such other official as the City Council by resolution shall designate. If the Capital Assessment against any property shall be sustained, reduced, or abated by the City Council, an adjustment shall be made on the Assessment Roll.

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ARTICLE V - COLLECTION AND USE OF ASSESSMENTS

Sec. 21A-27. Method of Collection.

- (a) Unless otherwise directed by the City Council, the Assessments shall be collected pursuant to the Uniform Assessment Collection Act, and the City shall comply with all applicable provisions of the Uniform Assessment Collection Act. Any hearing or notice required by this Ordinance may be combined with any other hearing or notice required by the Uniform Assessment Collection Act.
- (b) The amount of an Assessment to be collected using the Uniform Assessment Collection Act for any specific parcel of benefitted property may include an amount equivalent to the payment delinquency, delinquency fees and recording costs for prior years' assessment for a comparable service, facility, program, or Local Improvement provided, (1) the collection method used in connection with the prior year's assessment did not employ the use of the Uniform Assessment Collection Act, (2) notice is provided to the Owner, and (3) any lien on the affected parcel for the prior year's assessment is supplanted and transferred to such Assessment upon certification of a non-ad valorem roll to the Tax Collector by the City.

Sec. 21A-28. Alternative Method of Collection.

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

- (a) The City shall provide assessment bills by first class mail to the owner of each affected parcel of property, other than government property. The bill or accompanying explanatory material shall include:
 - (1) A brief explanation of the assessment,
 - (2) A description of the assessment units used to determine the amount of the assessment,
 - (3) The number of assessment units attributable to the parcel,
 - (4) The total amount of the parcel's assessment for the appropriate period,
 - (5) The location at which payment will be accepted,
 - (6) The date on which the assessment is due, and
 - (7) A statement that the assessment constitutes a lien against assessed property equal in rank and dignity with the liens of all state, county, district or municipal taxes and other non-ad valorem assessments.
- (b) A general notice of the lien resulting from imposition of the assessments shall be recorded in the official records of Charlotte County,

Florida. Nothing herein shall be construed to require that individual liens or releases be filed in the official records.

- (c) The City shall have the right to collect all delinquent assessments in the manner provided by law. An assessment shall become delinquent if it is not paid within thirty (30) days from the due date. The City or its agent shall notify any property owner who is delinquent in payment of an assessment within sixty (60) days from the date such assessment was due. Such notice shall state in effect that the City or its agent will initiate a foreclosure action and cause the foreclosure of such property subject to a delinquent assessment in a method now or hereafter provided by law for foreclosure of mortgages on real estate, or otherwise as provided by law.
- (d) All costs, fees and expenses, including reasonable attorney fees and title search expenses, related to any foreclosure action as described herein shall be included in any judgment or decree rendered therein. At the sale pursuant to decree in any such action, the City may be the purchaser to the same extent as an individual person or corporation. The City may join in one foreclosure action the collection of assessments against any or all property assessed in accordance with the provisions hereof. All delinquent property owners whose property is foreclosed shall be liable for an apportioned amount of reasonable costs and expenses incurred by the City and its agents, including reasonable attorney fees, in collection of such delinquent assessments and any other costs incurred by the City as a result of such delinquent assessments including, but not limited to, costs paid for draws on a credit facility and the same shall be collectible as a part of or in addition to, the costs of the action.
- (e) In lieu of foreclosure, any delinquent assessment and the costs, fees and expenses attributable thereto, may be collected pursuant to the Uniform Assessment Collection Act; provided however, that (a) notice is provided to the owner in the manner required by law and this article, and (b) any existing lien of record on the affected parcel for the delinquent assessment is supplanted by the lien resulting from certification of the Assessment Roll to the Tax Collector.

Sec. 21A-29. Government Property.

In lieu of using the Uniform Assessment Collection Act to collect Assessments from Government Property, the City may elect to use any other method authorized by law or provided by this Section as follows:

- (a) The City shall provide Assessment bills by first class mail to the Owner of each affected parcel of Government Property. The bill or accompanying explanatory material shall include (1) a brief explanation of the Assessment, (2) a description of the unit of measurement used to determine the amount of

the Assessment, (3) the number of units contained within the parcel, (4) the total amount of the parcel's Assessment for the appropriate period, (5) the location at which payment will be accepted, and (6) the date on which the Assessment is due.

- (b) Assessments imposed against Government Property shall be due on the same date as all other Assessments and, if applicable, shall be subject to the same discounts for early payment.
- (c) An Assessment shall become delinquent if it is not paid within 30 days from the date any installment is due. The City shall notify the Owner of any Government Property that is delinquent in payment of its Assessment within 60 days from the date such Assessment was due. Such notice shall state that the City will initiate a mandamus or other appropriate judicial action to compel payment.
- (d) All costs, fees and expenses, including reasonable attorney fees and title search expenses, related to any mandamus or other action as described herein shall be included in any judgment or decree rendered therein. All delinquent owners of Government Property against which a mandamus or other appropriate action is filed shall be liable for an apportioned amount of reasonable costs and expenses incurred by the City, including reasonable attorney fees, in collection of such delinquent Assessments and any other costs incurred by the City as a result of such delinquent Assessments and the same shall be collectible as a part of or in addition to, the costs of the action.
- (e) As an alternative to the foregoing, an Assessment imposed against Government Property may be collected on the bill for any utility service provided to such Government Property. The City Council may contract for such billing services with any utility not owned by the City.

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ARTICLE VI - ISSUANCE OF OBLIGATIONS

Sec. 21A-30. General Authority.

Upon adoption of the Final Assessment Resolution imposing Capital Assessments to fund a Local Improvement or at any time thereafter, the City Council shall have the power and is hereby authorized to provide by resolution, at one time or from time to time in series, for the issuance of Obligations to fund the Project Cost thereof.

If issued, the principal of and interest on each series of Obligations shall be payable from Pledged Revenue. At the option of the City Council, the City may agree, by resolution, to budget and appropriate funds to make up any deficiency in the reserve account established for the Obligations or in the payment of the Obligations, from other non-ad valorem revenue sources. The City Council may also provide, by resolution, for a pledge of or lien upon proceeds of such non-ad valorem revenue sources for the benefit of the holders of the Obligations. Any such resolution shall determine the nature and extent of any pledge of or lien upon proceeds of such non-ad valorem revenue sources.

Sec. 21A-31. Terms of the Obligations.

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

Sec. 21A-32. Variable Rate Obligations.

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

Sec. 21A-33. Temporary Obligations.

Prior to the preparation of definitive Obligations of any series, the City Council

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

Sec. 21A-34. Anticipation Notes.

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

Sec. 21A-35. Taxing Power Not Pledged.

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

Sec. 21A-36. Trust Funds.

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

Sec. 21A-37. Remedies of Holders.

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

Sec. 21A-38. Refunding Obligations.

The City may, by resolution of the City Council, issue Obligations to refund any Obligations issued pursuant to this Chapter, or any other obligations of the City theretofore issued to finance the Project Cost of a Local Improvement and provide for the rights of the holders hereof. Such refunding Obligations may be issued in an amount sufficient to provide for the payment of the principal of, redemption premium, if any, and interest on the outstanding Obligations to be refunded. If the issuance of such refunding Obligations results in an annual Assessment that exceeds the estimated maximum annual Capital Assessments set forth in the notice provided pursuant to Section 21A-23 hereof, the City Council shall provide notice to the affected property owners and conduct a public hearing in the manner required by Article IV of this Chapter.

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ARTICLE VII - MISCELLANEOUS PROVISIONS

Sec. 21A-39. Applicability.

This Chapter and the City Council's authority to impose assessments pursuant hereto shall be applicable throughout the City.

Sec. 21A-40. Alternative Method.

This Chapter shall be deemed to provide an additional and alternative method for the doing of the things authorized hereby and shall be regarded as supplemental and additional to powers conferred by other laws, and shall not be regarded as in derogation of any powers now existing or which may hereafter come into existence. This Chapter, being necessary for the welfare of the inhabitants of the City, shall be liberally construed to effect the purposes hereof.

Nothing herein shall preclude the City Council from directing and authorizing, by resolution, the combination with each other of (1) any supplemental or additional notice deemed proper, necessary, or convenient by the City, (2) any notice required by this Chapter, or (3) any notice required by law, including the Uniform Assessment Collection Act.