

**CITY OF ST. AUGUSTINE CITY COMMISSION
SPECIAL MEETING AGENDA**

**WEDNESDAY, APRIL 3, 2019 - 1:30 P.M.
ALCAZAR ROOM**

-
1. Roll call
 2. General Public Comments
 3. Review and discussion of the City of St. Augustine's Municipal Charter.
 4. Adjourn

NOTICES: In accordance with Florida Statute 286.0105: "If any person decides to appeal any decision made by the City Commission with respect to any matter considered at this scheduled meeting or hearing, the person will need a record of the proceedings, and for such purpose the person may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based." In accordance with the Americans with Disabilities Act, persons needing a special accommodation to participate in this proceeding should contact the individual or agency sending notice not later than seven days prior to the proceeding at the address given on the notice. Telephone (904) 825-1007; 1-800-955-8771 (TDB) or 1-800-955-8770 (V), via Florida Relay Service.

CITY OF ST. AUGUSTINE

MEMORANDUM

TO: Mayor and Commissioners

DATE: April 3, 2019

RE: Information regarding a process to review the City Charter

Dear Mayor and Commissioners,

A brief review of processes to amend the City Charter was given during the June 12, 2017 regular Commission meeting. Florida Statutes 166.021 and 166.031 provide basic guidelines for Charter amendments, which I have attached. State statutes do not provide guidelines on how amendments are determined. Amendments can be made in three ways depending on the substance of the changes.

- Referendum determined by Ordinance for the following:
 - Extraterritorial Powers
 - The creation or existence of a municipality
 - Terms of elected officers and the manner of their election
 - Distribution of powers of elected officers
 - Appointed boards prescribed by Charter
 - Change in form of government
 - Employee rights
- Simple Ordinance modifications:
 - Preemptive state legislation
 - Redefining boundaries to include annexed property
 - "Housekeeping" amendments not pertaining to items listed above
- Petition signed by 10% of the registered electors preceding a general election

The City over the years has amended the Charter for various reasons with the majority of them being due to updated legislation. According to my research, Charter reviews have been typically conducted by the City Attorney based on various reasons such as changes to Florida Statutes or updating outdated

language. An extensive review of the City Charter and Code was conducted during the late 1980's when the City recodified its current Code edition. This was conducted by the supervising editor of the Municipal Code Corporation and attorney, Geoffrey Dobson. The last charter amendment by referendum was conducted during the 2006 election season to designate City Commission Seat 3 as the Mayor/Commissioner seat.

I previously reached out to the City of St. Augustine Beach to gather information on their process of revising their City Charter. The process began with identifying the need and establishing criteria for an ad hoc review committee. Interested individuals submitted applications and the Beach Commission appointed five members. A professional facilitator was hired for \$4,000 plus travel expenses to and from Orlando. The Charter Review Committee met during publicly noticed meetings on a monthly basis for approximately eight months and conducted a step-by-step review of the charter.

Proposed amendments were established by Ordinance then presented to the electorate during the subsequent primary and general elections. The amendments approved by a majority of the voters were then codified.

The Florida League of Cities published a survey during 2016 to determine the frequency and methods used by cities across the state for their Charter Review process across, which I have also attached.



Darlene Galambos
City Clerk

166.031 Charter amendments.—

(1) The governing body of a municipality may, by ordinance, or the electors of a municipality may, by petition signed by 10 percent of the registered electors as of the last preceding municipal general election, submit to the electors of said municipality a proposed amendment to its charter, which amendment may be to any part or to all of said charter except that part describing the boundaries of such municipality. The governing body of the municipality shall place the proposed amendment contained in the ordinance or petition to a vote of the electors at the next general election held within the municipality or at a special election called for such purpose.

(2) Upon adoption of an amendment to the charter of a municipality by a majority of the electors voting in a referendum upon such amendment, the governing body of said municipality shall have the amendment incorporated into the charter and shall file the revised charter with the Department of State. All such amendments are effective on the date specified therein or as otherwise provided in the charter.

(3) A municipality may amend its charter pursuant to this section notwithstanding any charter provisions to the contrary. This section shall be supplemental to the provisions of all other laws relating to the amendment of municipal charters and is not intended to diminish any substantive or procedural power vested in any municipality by present law. A municipality may, by ordinance and without referendum, redefine its boundaries to include only those lands previously annexed and shall file said redefinition with the Department of State pursuant to the provisions of subsection (2).

(4) There shall be no restrictions by the municipality on any employee's or employee group's political activity, while not working, in any referendum changing employee rights.

(5) A municipality may, by unanimous vote of the governing body, abolish municipal departments provided for in the municipal charter and amend provisions or language out of the charter which has been judicially construed, either by judgment or by binding legal precedent from a decision of a court of last resort, to be contrary to either the State Constitution or Federal Constitution.

(6) Each municipality shall, by ordinance or charter provision, provide procedures for filling a vacancy in office caused by death, resignation, or removal from office. Such ordinance or charter provision shall also provide procedures for filling a vacancy in candidacy caused by death, withdrawal, or removal from the

ballot of a qualified candidate following the end of the qualifying period which leaves fewer than two candidates for an office.

History.—s. 1, ch. 73-129; s. 1, ch. 86-95; s. 1, ch. 90-106; s. 43, ch. 90-315; s. 45, ch. 94-136.

166.021 Powers.—

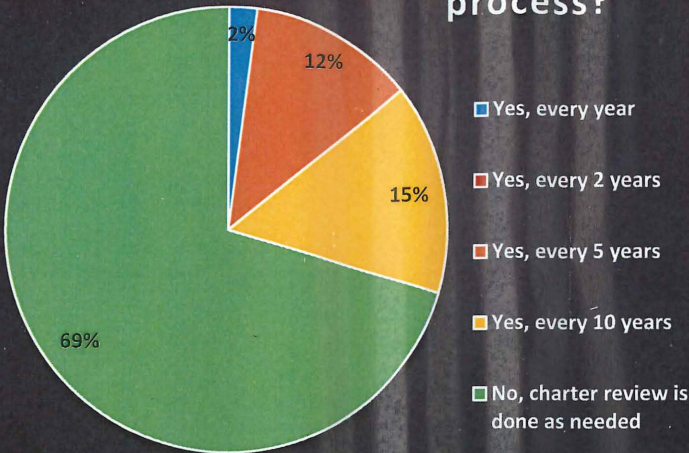
(4) The provisions of this section shall be so construed as to secure for municipalities the broad exercise of home rule powers granted by the constitution. It is the further intent of the Legislature to extend to municipalities the exercise of powers for municipal governmental, corporate, or proprietary purposes not expressly prohibited by the constitution, general or special law, or county charter and to remove any limitations, judicially imposed or otherwise, on the exercise of home rule powers other than those so expressly prohibited. However, nothing in this act shall be construed to permit any changes in a special law or municipal charter which affect the exercise of extraterritorial powers or which affect an area which includes lands within and without a municipality or any changes in a special law or municipal charter which affect the creation or existence of a municipality, the terms of elected officers and the manner of their election except for the selection of election dates and qualifying periods for candidates and for changes in terms of office necessitated by such changes in election dates, the distribution of powers among elected officers, matters prescribed by the charter relating to appointive boards, any change in the form of government, or any rights of municipal employees, without approval by referendum of the electors as provided in s. 166.031. Any other limitation of power upon any municipality contained in any municipal charter enacted or adopted prior to July 1, 1973, is hereby nullified and repealed.



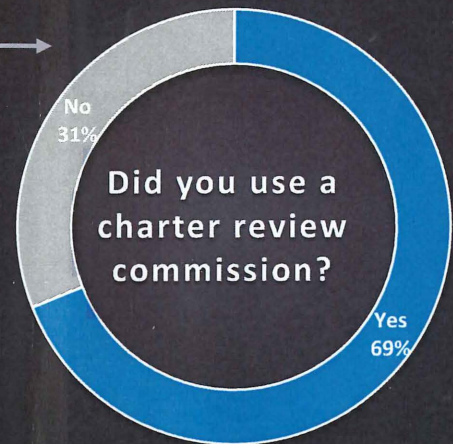
2016 CityStats Charter Review Process Analysis

As part of the 2016 CityStats survey, the League conducted a series of questions to determine the frequency and process of municipal charter reviews. The following graphs should be helpful for those members getting ready for charter review or considering a formalization of a charter review process. If you have questions regarding charter reviews and amendments, contact FLC University Director Lynn Tipton via email ltipton@flcities.com or phone 407-367-4025.

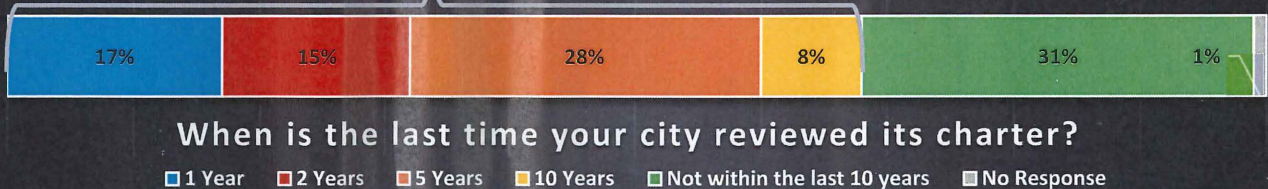
Does your city have a formal scheduled charter review process?



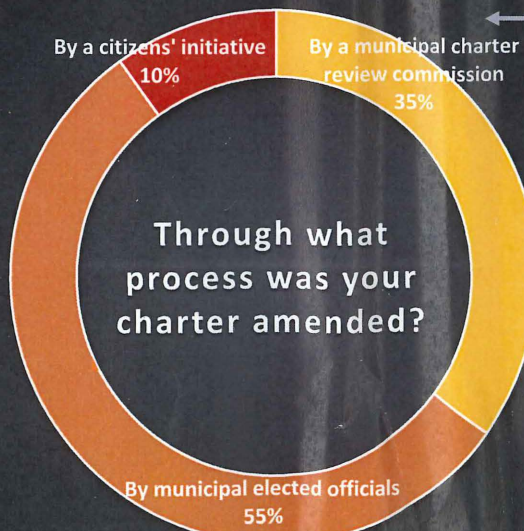
Did you use a charter review commission?



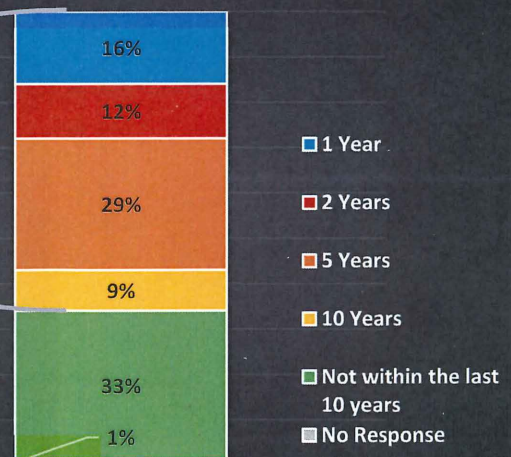
When is the last time your city reviewed its charter?



Through what process was your charter amended?



When is the last time your city charter was amended?



CITY OF ST. AUGUSTINE

MEMORANDUM

TO: Mayor, Vice-Mayor and Commissioners

DATE: March 20, 2019

RE: **CITY CHARTER AMENDMENTS**

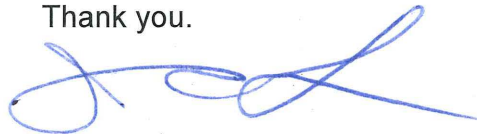
Please find enclosed a working copy of the current City Charter (with its legal description omitted for ease of reference), as well as a first review of possible amendments and deletions. These fall into four (4) broad categories:

- 1) No change suggested;
- 2) Suggested changes to conform to both genders, for clarity or grammar, or to reflect current practice;
- 3) Suggested deletions for items that have previously been identified as obsolete, superseded, abolished, or transferred to our municipal code;
- 4) Changes that are not suggested for better form, or compliance with other laws, but that are fundamentally policy changes, such as how to select a mayor. These policy changes need greater discussion by the City Commission and direction to staff if there is a desire to make substantive changes.

In addition to the City Attorney documents, the City Clerk will have information on the procedure to amend the Charter, for instance most items can be changed by simple ordinance, but modifications to how elections are conducted or changes that affect employee rights, would require a referendum consist with state law. The Clerk has also reached out to peer cities to obtain more information on how they have conducted charter reviews, as well as, what the Supervisor of Elections requirements would be for placing amendments on a referendum.

We hope this information is helpful in getting the conversation started at our April 3rd workshop.

Thank you.



Isabelle C. Lopez
City Attorney

Attachment

xc: John P. Regan, City Manager
Darlene Galambos, City Clerk
Directors

ARTICLE I. - TRANSITION; CORPORATE LIMITS	SUGGESTED CHANGES
Sec. 1.01. - Short title.	NC (No Change Suggested)
Sec. 1.02. - Existing municipality abolished.	NC; LEAVE FOR HISTORICAL REFERENCE
Sec. 1.03. - New municipality created.	NC; LEAVE FOR HISTORICAL REFERENCE
Sec. 1.04. - Rights and liabilities of old municipality vested in new.	↩ REMOVE AS OBSOLETE
Sec. 1.05. - Obligations not to be impaired.	↩ REMOVE AS OBSOLETE
Sec. 1.06. - Officers to continue in office; ordinances unimpaired.	↩ REMOVE AS OBSOLETE
Sec. 1.07. - Liens not impaired by act.	↩ REMOVE AS OBSOLETE
Sec. 1.08. - Boundaries. <i>(Legal Description of City Limits)</i>	NC
Sec. 1.09. - Property excluded to pay pro rata share of debts.	↩ REMOVE AS OBSOLETE
Sec. 1.10. - City may furnish water to excluded property.	NC
Sec. 1.11. - Property of certain subdivisions subject to liens.	↩ REMOVE AS OBSOLETE
Sec. 1.12. - City not to exercise jurisdiction over excluded territory.	↩ REMOVE AS OBSOLETE
Sec. 1.13. - Liability of property excluded from city limits.	↩ REMOVE AS PREEMPTED
Sec. 1.14. - Excluded property to pay pro rata share of assessments.	↩ REMOVE AS PREEMPTED
Sec. 1.15. - State land granted to city.	NC
Sec. 1.16. - Annexation of lands by city—Lands subject to annexation.	↩ REMOVE AS PREEMPTED
Sec. 1.17. - Same—Procedure.	↩ REMOVE AS PREEMPTED
Sec. 1.18. - Same—Liability of annexed lands for city debt.	↩ REMOVE AS PREEMPTED
Sec. 1.19. - Same—Rights of residents to vote in city elections and to hold office.	↩ REMOVE AS PREEMPTED
Sec. 1.20. - Same—Right of licensees, permittees and certificate holders.	↩ REMOVE AS PREEMPTED
Sec. 1.21. - Validation of Code and ordinances.	↩ REMOVE AS OBSOLETE
Secs. 1.22–1.27. - Reserved.	↩ RENUMBER AFTER REMOVAL OF SECTIONS

ARTICLE II. - CITY COMMISSION AND CITY EMPLOYEES

SUGGESTED CHANGES

Sec. 2.01. - Composition; qualifications of members; terms of office; manner of election.

The city commission of the City of St. Augustine, Florida shall consist of five (5) members and who shall be qualified electors of said city, with one of the commissioners to be designated as mayor in accordance with this charter. Each commissioner shall be elected at large in the manner hereinafter provided. Commencing with the general election to be held in November, 1992, three (3) commissioners shall be elected, the candidate receiving the highest number of votes cast for Seat One to serve for a term of four (4) years; the candidate receiving the highest number of votes cast for Seat Two to serve for a term of four (4) years; and the candidate receiving the highest number of votes cast for Seat Three to serve for a term of two (2) years, and thereafter, commencing with the general election to be held in November, 1994, three (3) commissioners shall be elected. The candidate receiving the highest number of votes cast for Seat Four to serve for a term of four (4) years, the candidate receiving the highest number of votes for Seat Five to serve for a term of four (4) years, the candidate receiving the highest number of votes cast for Seat Three, designated as the mayor/commissioner seat, to serve for a term of two (2) years. Thereafter in general elections to be held in November of each even numbered year, successful candidates for Seats One, Two, Four and Five shall be elected for a term of four (4) years and the successful candidate for Seat Three receiving the highest number of votes shall be elected for a term of two (2) years."

← POLICY DECISION
RE: ANY CHANGES

← RESIDENCY ISSUE
(SEE SEC. 2.03)

Sec. 2.02. - Powers generally; members to judge own elections, etc.; forfeiture of office on conviction of crime.

The city commission shall constitute the governing body of the city, with powers as hereafter provided, to pass ordinances, adopt resolutions and appoint an administrative officer to be known as the city manager and to exercise all other powers hereinbefore or hereafter provided. A quorum of the city commission shall consist of three commissioners, but a less number may adjourn from day to day to compel the attendance of absent members in such manner and under such penalties as may be prescribed by ordinance and no legislative action on the part of the city commission shall be valid unless concurred in by a three-fifths vote of all the members of the city commission. The city commission shall be the judge of the election and the qualifications of its own members subject to review by the courts. Any member of the commission who shall be convicted of a felony or a crime involving moral turpitude while in office shall forfeit his or her office.

← THERE IS NONE; SEE SEC 5.05-ABSENCE FROM MTGS

← UPDATE-"SIMPLE MAJORITY VOTE" (LANGUAGE USED ELSEWHERE)

← UPDATE TO SPECIFIC CRIMES IF DESIRED BY COMMISSION

Sec. 2.03. - Members of the city commission to be residents and electors; dual office-holding prohibition and ethics laws.

Members of the commission of the City of St. Augustine, shall be residents of the city, and the members of the commission shall have the qualifications of electors therein. The prohibition against dual office-holding and the regulation of public ethics shall be as required pursuant to Florida law.

← POLICY DECISION
RE: DURATION OF RESIDENCY
1 YR. UPHELD: DANES V. CITY OF LONGWOOD, NICHOLS V. STATE;
2 YR. NOT UPHELD: SARASOTA CITY V. GUSTAFSON

Sec. 2.04. - Commissioners or city employees not to accept free tickets, services; exceptions. No commissioner or other officer or employee of the city shall accept any frank, free ticket, pass or service, directly or indirectly, from any person, firm or corporation upon terms more favorable than are granted to the public generally; provided, that such prohibition of free service shall not apply to policemen or firemen in uniform or wearing their official badges where same is authorized by ordinance. <u>Public officers and employees to comply with State of Florida Code of Ethics.</u> <u>Reporting individuals, as defined and interpreted consistent with Florida law, shall comply with the State of Florida's financial and gift disclosure regulations. All public officers and employees shall comply with the State of Florida's code of ethics, including, but not limited to, prohibitions on gifts intended to influence official decision-making.</u>	← UPDATED 11/13/18 BY ORDINANCE 2018-13
Sec. 2.05. - Forfeiture of office by commissioner losing qualifications. Any commissioner who shall cease to possess any of the qualifications required under the six [four] preceding sections [§§ 2.01–2.04] shall forthwith forfeit his <u>or her</u> office.	← UPDATE LANGUAGE
Sec. 2.06. - Vacancies. Any vacancy in the city commission shall be filled until the next municipal election by vote of the remaining members of the commission; provided, that if such vacancy is not filled within <u>ten days</u> after it shall have occurred, appointment to fill the existing vacancy shall be made by the Governor.	← CHANGE TO AT LEAST 30 DAYS
Sec. 2.07. - Group insurance of city employees—Authorized.	NC
Sec. 2.08. - Same—Payment of premiums by city.	NC
Sec. 2.09. - Same—Deductions from salaries.	NC
Sec. 2.10. - Annual Christmas bonus. The City of St. Augustine, Florida, is hereby authorized and empowered to pay, by resolution, to each of its officers and employees a Christmas bonus less all necessary deductions. That such bonus shall be in addition to and in no manner in lieu of any other regular compensation paid to such officer and employee.	← SHOULD BE PLACED IN MUNICIPAL CODE AND LANGUAGE UPDATED TO CONFORM TO STATUTE
Sec. 2.11. - Removal of city official; hearing. That in the event of the removal of any paid official of the City of St. Augustine, Florida, appointed by the city commission of said city, after having served for a period of thirty days such official, upon request within three days thereafter, shall be entitled to a public hearing within fifteen days after said removal, and the final removal thereof shall not be effective until after such public hearing.	← REMOVE AS REDUNDANT (SELECT SEC. 2.11 OR 4.05)
<i>Secs. 2.12–2.17. - Reserved.</i>	----

ARTICLE III. - POWERS AND DUTIES

SUGGESTED CHANGES

Sec. 3.01. - General state laws.

NC

Sec. 3.02. - General powers.

The City of St. Augustine, Florida, by and through its city commission, shall have and is hereby granted the right, power and privilege:

- (a) *Taxes.* To levy taxes and assessments.
- (b) *Public works.* To control, perform and furnish all public services including the services of a civil or other engineer for the purpose of obtaining data, estimates, plans and specifications for proposed or contemplated public works or improvements except as otherwise herein provided.
- (c) *Acquisition of lands.* To acquire by purchase, gift, devise, bequest, donation, lease or condemnation any real or personal property or any estate, right, easement or interest therein, situate within or without the corporate limits of the City of St. Augustine for any of the uses, purposes and needs of the City of St. Augustine, Florida, and upon the acquisition of same to hold, use, manage, maintain, control, sell, lease, donate, exchange, mortgage, pledge or otherwise dispose of and encumber the same.
- (d) *Lands, buildings, water, eminent domain.* To maintain and further public improvements and works of all kinds, including municipal and other public buildings, armories, markets, toll bridges, airports and all buildings and other structures necessary or appropriate for the use of the city, and to acquire by condemnation proceedings or otherwise any and all lands, riparian or otherwise, and other rights and easements necessary for such public works and improvements; to purchase, hire, construct, own, maintain, operate or lease works for supplying the city and its inhabitants with water; to acquire in any lawful manner in any county of the State of Florida, or without said state, such water, lands and land under water as may be deemed necessary for the purpose of providing an adequate water supply for said city and for the piping of said water from such land or lands under water herein authorized to be acquired, wheresoever situate, to the said City of St. Augustine for constructing and erecting necessary dams, pumping stations and any and all other works in connection therewith; to make all reasonable rules and regulations for promoting the purity of its water supply wheresoever situate, and for protecting the same from pollution; and for this purpose to exercise full police powers over all lands comprised within the limits of the watershed territory tributary to such water supply wherever such land may be located in the State of Florida; to impose and enforce adequate penalties for the violation of any such rules and regulations; and to prevent by injunction any pollution or threatened pollution of such water supply, and any and all acts likely or considered likely, to impair the purity thereof; and for the purpose of acquiring lands or materials for any such use, to exercise within the State of Florida, all powers of eminent domain. For any of the purposes aforesaid, the said City of St. Augustine, by and through its city commission, shall have the right, power and authority to acquire by condemnation, purchase or otherwise, any estate or interest in such lands, or any of them, or any right of easement therein, reserving to the

NC

owner or owners thereof such rights or easements as may be prescribed in the ordinance providing for such condemnation or purchase of any lands or interest therein. The city may sell or supply to persons, firms or industries residing or located without the city limits any surplus of water it may have over and above the amount required to adequately supply its own inhabitants.

- (e) *Wharves, bridges.* To establish, build, construct, maintain and operate public lands, public wharves, docks and toll bridges within the city; and to acquire by condemnation or other lawful manner all lands, riparian and other rights, approaches and easements necessary for the purposes aforesaid; to lay and collect reasonable duties or wharfage fees on vessels or boats using any such landings, wharves or docks; to assess and collect tolls from and upon any municipally owned toll bridge or bridges of the city and to fix the rate of such tolls and to provide for the application of the revenues derived from such tolls to any municipal purpose or purposes; to dredge or to deepen the harbor or rivers, or any branch or portion thereof, within the limits of said city; to prescribe and enforce reasonable rates and regulations for the protection and use of its said properties.
- (f) *Aircraft regulations.* To license and regulate all and every manner and kind of air vessels operated over the city; and to stipulate the height at, and the manner in which said air vessels may be operated above the area included in the city limits, and to license and register the pilots thereof; to establish and maintain and equip municipal airports, and to regulate the use thereof and to prescribe and collect fees or tolls for the use thereof, unless otherwise preempted to the state or federal government.
- (g) *Plats, fills, conveyances.* To develop by filling, platting, bulkheading, reclaiming, dredging, subdividing or otherwise improving as may be prescribed by the city commission for the health, comfort, convenience and amusement of the inhabitants of said city, all lands acquired by the said city, by purchase or otherwise, and lying and being within or outside the corporate limits of said city as hereinbefore set forth; such development may be carried on under contract with persons, firms or corporations or otherwise as the city commission may deem wise; and in the furtherance of such development of all land acquired by said city, by purchase or otherwise, the said city commission shall have the right and power to make, execute and deliver good and sufficient deeds of conveyance under such restrictions as may be prescribed by the city commission to persons, firms or corporations for private purposes, and to receive and accept money or other valuable considerations, the kind and amount to be fixed by said city commission, in payment for the conveyance of such lands; provided, however, that all moneys derived from the sale of such lands, after the costs of such development have been paid, shall be used for a public purpose. in the building of municipal wharves, docks and terminals, yacht basins, piers, parkways, golf links and suitable buildings to be operated in connection therewith, sanitation and for the furtherance of commerce and navigation.
- (h) *Historical sites.* It is hereby declared and enacted that the preservation, restoration and maintenance of the City of St. Augustine's ancient landmarks, sites, buildings, remains and other property of historical or antiquarian interest, of scenic beauty, recreational or scientific utility, remarkable phenomena or other unusual features is a public use for the

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observation, education, health, pleasure, benefit and general welfare of its citizens.

- (i) *Underground wiring—Buildings; zoning.* The City of St. Augustine, by and through its city commission, be and it is hereby authorized and empowered ~~to enact by its~~ zoning ordinances ~~to define the terms "residence," "place of residence," "business," "place of business," "business, residential," "historical park," "parking," "scenic and boulevard areas and districts";~~ to limit, regulate, control or prohibit the erection or construction of any pole, object or thing for carrying, holding or maintaining any overhead wires; to limit and regulate the location, or require the placing underground, of all overhead wires within the boundaries of the City of St. Augustine, Florida unless prohibited by state or federal law; to prohibit, regulate and control the construction, erection, maintenance and use of any and all signs, billboards or displays of any nature over and upon the streets of the City of St. Augustine, Florida, and over and upon the property of any individual, person, firm, corporation or association situated within the corporate limits of the City of St. Augustine, Florida; to regulate, control and limit the architectural design, kind of material, height, size and location of buildings and structures hereafter erected; and to regulate and control the use and alteration of present buildings and structures and those to be hereafter erected and constructed; to require the alteration and razing of present buildings or structures or portions thereof which are in conflict with the zoning ordinance or ordinances of the City of St. Augustine, Florida; to regulate, control and determine the area of yards, courts and other open spaces, and to create and establish, regulate and control business, residential, historical, park, parking, scenic, boulevard and other similar areas and districts and combinations thereof, and to prescribe for each such area and district the business, trades and industries that shall be excluded or allowed and regulated therein. Such regulations shall be designed to promote the public health, safety from fire and other damages, preserve and maintain ancient landmarks, buildings, remains, sites and other property of historical or antiquarian interest, of scenic beauty, recreational and scientific utility for the education, pleasure, benefit and general welfare of the inhabitants of the City of St. Augustine, and their property, and shall be made with reasonable consideration, among other things taking into consideration the location of the districts, its peculiar suitability for particular trade or industrial uses, historical, scenic, recreational, scientific and educational value and the conservation of property and enhancement of property values in such districts and the direction and general supervision of building development in accord with a well considered and duly adopted plan; the grant of specific powers in relation to the regulation of buildings and the location of business, trades and industries shall not be dependent upon any state law.
- (j) *Traffic.* The City of St. Augustine, Florida, by and through its city commission, be and it is hereby granted full power and authority by ordinance or ordinances to regulate and control all traffic of any nature whatsoever, and prohibit where necessary the use of motor vehicles, over, upon and in its streets, roads, parks, parking areas and boulevards; and to regulate and control the width, height and weight of any kind of any and all motor or other vehicles; to establish terminals for passenger and freight motor lines and when so designated said passenger and freight lines shall take on and discharge their passengers and freight at

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only such designated terminals, unless otherwise preempted to the state or federal government.

← ADD LANGUAGE

- (k) *Underground wiring.* The City of St. Augustine, Florida, by and through its city commission, be and it is hereby granted the power and authority to regulate, control or prohibit by ordinance the erection or construction of any pole, object or thing for carrying, holding or maintaining any overhead wires, and of the stringing of any wires on any pole, object or thing within the incorporated limits of the City of St. Augustine, Florida, and to compel by legal action all individuals, firms, associations or corporations owning or maintaining overhead wires on poles or other objects or things within the limits of the City of St. Augustine, Florida, to place said wires underground and to raze the poles, objects or things on which they are now strung, unless otherwise prohibited by state or federal law.
- (l) *Signs and advertising—City streets.* The City of St. Augustine, Florida, by and through its city commission, be and it is hereby further granted full power and authority by ordinance or ordinances to prohibit, regulate and control the construction, erection, maintenance and use of any and all signs, billboards, or displays of any nature over and upon the streets of the City of St. Augustine.
- (m) *Same—Private property.* The City of St. Augustine, Florida, by and through its city commission, be and it is hereby further granted full power and authority by ordinance or ordinances to prohibit, regulate and control the construction, erection, maintenance and use of any and all signs, billboards or displays of any nature over and upon the property of any individual, person, firm, corporation or association situated within the corporate limits of the City of St. Augustine, Florida.
- (n) *Eminent domain.* The City of St. Augustine, Florida, by and through its city commission, be and it is hereby granted the power of eminent domain, upon payment of just compensation, to take the fee title to property or any right, easement or interest therein less than the fee as may be necessary for the preservation, restoration and maintenance of its ancient landmarks, sites, buildings and other property of historical or antiquarian interest, of scenic beauty, recreational or scientific utility, remarkable phenomena or other unusual feature, for the elimination of signs, billboards or similar mediums of display, for the relocation, or the placement of overhead wires underground, and for the relocating of the razing of the poles, objects or things upon which said wires are strung, within the corporate limits of the City of St. Augustine, Florida.
- (o) *Acquisition of property.* The City of St. Augustine, Florida, by and through its city commission, be and it is hereby authorized and empowered to receive, accept and acquire by gift, devise, bequest, donation, purchase, lease, condemnation or otherwise historical landmarks, sites, remains, buildings, monuments, cemeteries or other antiquarian interest or value, scenic beauty, scientific interest, recreational utility, remarkable phenomena or other unusual features, books, manuscripts and other personal property of historical value, relics, as well as money for the purchase and maintenance of same, and to hold, control, own and use the same and provide for the restoration, care and preservation of the same; and in the same manner to receive, accept and acquire any property immediately contiguous to and adjoining any such real estate which is necessary for any such educational, scientific or historical purpose or for the accommodation of the public in visiting such

← ADD LANGUAGE

historical site, object or place, or which is essential to the carrying out of the intent and purpose for which the park, preserve, site or memorial was created; the City of St. Augustine, by and through its city commission, be and it is hereby specifically authorized and empowered to hold, use, manage, control, sell, lease, donate, exchange, mortgage, pledge or otherwise dispose of any such property or any part thereof, upon such terms and conditions as may be prescribed by the city commission of the City of St. Augustine, Florida, whether the said property was acquired by gift, devise, bequest, donation, purchase, lease, condemnation or otherwise.

- (p) *City may act as trustee.* The City of St. Augustine, Florida, by and through its city commission or other governing head, be and it is hereby granted the power and authority to act as trustee for any money and property, real or personal, which may be placed by gift, devise, bequest, donation or otherwise in its hands for the use and benefit of said city, and/or for the use, observation, education, health, benefit, pleasure and general welfare of the citizens of the City of St. Augustine, Florida, and/or for the restoration, preservation and maintenance of ancient or historical landmarks, sites, cemeteries, graves, military works, monuments, locations, remains, buildings and other property or objects of historical or antiquarian interest or value, scenic beauty, scientific interest, recreational utility, remarkable phenomena or other unusual features of the City of St. Augustine, and to bind the said city, its commissioners or other governing head, in the acceptance thereof, and to any and all conditions attached to such gift, bequest, devise or donation; that such money and property shall not be subject to or held liable for any claim, indebtedness, judgment, mortgage or lien which has been or may be obtained by any person, firm, corporation or association against the City of St. Augustine, Florida; that the said property or money coming into the hands of said city in trust shall be held and used only for the purposes for which the said property or money is placed in its hands in trust, and that all such money and property shall be inviolate and not subject to any action at law or equity against the said City of St. Augustine, Florida, for any of its said obligations.
- (q) *General law.* The enumeration of the particular powers herein shall not be construed or held to be exclusive, but in addition to the powers enumerated herein, implied thereby or appropriate to the exercise thereof, the City of St. Augustine, Florida, shall have, and may exercise thereof all other powers which are conferred upon cities by the general laws of which, under the constitution and laws of Florida, it is and would be competent for this section expressly to enumerate.
- (r) *Codification of ordinances.* The City of St. Augustine, Florida, shall have the power, and is hereby authorized, by and through its city commission, at any time, to appoint some person or persons and authorize ~~him or~~ them to arrange and codify the ordinances of said city and to publish such codification in an appropriate volume which shall become the laws of said city upon the adoption by ordinance duly passed by the city commission; and provided further, that in the exercise of the power by said commission to adopt said codification, it shall not be necessary to publish said codification, but the publication of the ordinance adopting the same shall be sufficient to make the codification of such ordinances binding as the laws of said city.

↩ UPDATE LANGUAGE

Sec. 3.03. - Powers as to zoning.	NC
Sec. 3.04. - City may operate municipal bus line. An additional power is hereby granted to the city commission and the City of St. Augustine, Florida, to wit: The City of St. Augustine, Florida shall have the power and authority to buy, purchase and sell, to lease and mortgage, <u>to regulate</u> and to maintain and operate a municipal bus, or bus line, <u>or other mode of transit</u> for the carrying of passengers and freight within the city limits of the City of St. Augustine, Florida.	 ADD LANGUAGE
Sec. 3.05. - Commission to exercise all powers not delegated; administrative service to be dealt with through city manager. All powers of the city except such as are vested in the jurisdiction of the municipal court and except as otherwise provided by this charter or by the constitution of the state, are hereby vested in the city commission; and, except as otherwise provided by this charter, or by the constitution of the state, the city commission may, by ordinance or resolution, prescribe the manner in which any power of the city shall be exercised. Neither the commission nor any of its members shall dictate the appointment of any person to office or employment by the city manager or in any manner prevent the city manager from exercising his <u>or her</u> own judgement in selecting the personnel of his <u>or her</u> administration. The commission and its members shall deal with the administrative service solely through the city manager and neither the commission nor any member thereof shall give orders to, nor make requests of any of the subordinates of the city manager, either publicly or privately. Provided, however, nothing herein shall be taken or construed as a criminal violation or to prohibit the commission or any member thereof from making requests for information only from any of the subordinates of the city manager or the city's administrative service.	 REMOVE AS OBSOLETE  ADD LANGUAGE
Sec. 3.06. - Authority to provide fire protection and other services beyond limits.	NC
Sec. 3.07. - Authority to promote and publicize city.	NC
<i>Secs. 3.08–3.12. - Reserved.</i>	----
<u>ARTICLE IV. - EXECUTIVE AND ADMINISTRATIVE OFFICERS</u>	<u>SUGGESTED CHANGES</u>
<u>DIVISION 1. – IN GENERAL</u>	
Sec. 4.01. - In whom power vested. The executive and administrative powers of the city, not herein otherwise provided for, shall be vested in and exercised by the following officers and departments: A city attorney, <u>a city clerk, and a city manager, and any departments as enumerated by the city manager.</u> a municipal judge, and three departments as follows: Department of public safety and welfare and public works, department of records and taxation and department of finance.	 UPDATE LANGUAGE
Sec. 4.02. - Investigation of departments, officers; process; procedure. The city commission, or any committee thereof, the city manager or any advisory board appointed by the city commission for such purposes, shall have power at any time to cause the affairs of any department or the conduct	

of any officer or employee to be investigated and for such purpose shall have power to compel the attendance of witnesses and the production of books, papers and other evidence, and for that purpose may issue subpoenas or attachments which shall be signed by the president or chairman of the body or by the officer making the investigation, and shall be served by any officer authorized by law to serve such process. The authority making such investigation shall have power to cause the testimony to be given under oath, such oath to be administered by some officer having authority under the law of the state to administer oaths; and shall also have power to punish as for contempt any person refusing to testify to any fact within his knowledge, or produce any book or papers under <u>his or her</u> control relating to the matter under investigation.	↩ UPDATE LANGUAGE
Sec. 4.03. - Oath of officers.	↩ REMOVE; MOVED TO CODE SEC. 2-51
Sec. 4.04. - Present officers to continue in office.	↩ REMOVE AS OBSOLETE
Sec. 4.05. - Removal of city official; hearings. In the event of the removal of any paid official of the City of St. Augustine, Florida, appointed by the city commission of said city, after having served for a period of thirty days, such official, upon request within three days thereafter, shall be entitled to a public hearing within fifteen days after said removal, and the final removal thereof shall not be effective until after such public hearing.	↩ APPEARS REDUNDANT (SELECT SEC. 2.11 OR 4.05)
Sec. 4.06. - Tort actions against city.	↩ REMOVE AS SUPERCEDED BY STATE LAW
<u>DIVISION 2. - COMPENSATION OF OFFICERS</u> Sec. 4.07. - Salaries fixed by commission; salaries fixed by city manager; to be uniform; where reported; disposition of fees and moneys. The commission shall <u>fix by ordinance determine</u> the salary or compensation of the city attorney, <u>city manager municipal judge, the heads of the departments, members of the police and fire forces</u> and members of boards. The city manager <u>and the city attorney shall will determine fix</u> the number and compensation of all other officers and employees <u>in their respective departments, as approved by adoption of the city commission's annual budget</u> . All such salaries and rates of pay with dates of employment and discharge shall be immediately reported to the director of financial services. All fees and moneys received or collected by officers and employees shall be immediately paid over to the director of financial services on the date of their receipt. <i>Editor's note— The third sentence of the above section has been deleted pursuant to city instructions. References to the municipal judge are obsolete. See Fla. Const. art. V, § 20(d)(4).</i>	↩ UPDATE AND ADDITIONAL LANGUAGE
Sec. 4.07-1. - Salary of commissioners.	↩ REMOVE; MOVED TO CODE SEC. 2-26
Sec. 4.08. - Bond of officers, etc. The city commission, <u>or city manager, or city attorney</u> in fixing the salary of any officer, clerk, or employee shall determine whether or not such officer, clerk or employee shall give bond, and the amount thereof, which bond shall be procured from a regularly accredited surety company authorized to do business under the laws of Florida, the premiums on such bonds to be paid by the city. All such bonds shall be filed in the office of the city clerk.	↩ UPDATE LANGUAGE (OR REMOVE IT ENTIRELY)

DIVISION 3. - MAYOR

Sec. 4.09. - Election; powers and duties.

The commissioner elected to Seat Three shall serve as mayor and shall preside at all meetings of the commission and perform such other duties consistent with his or her office as may be imposed by it, and he or she shall have a voice and vote in the proceedings of the commission but no veto power. He or she may use the title of mayor in any case in which the execution of legal instruments of writing or other necessity arising from the general laws of the state so requires, but this shall not be considered as conferring upon him or her the administrative or judicial functions of a mayor under the general laws of the state. He or she shall be recognized as the official head of the city by the courts for the purpose of serving civil processes ~~by the government in the exercise of military law~~ and for all ceremonial purposes. ~~He or she may take command of the police and govern the city by proclamation during times of grave public danger or emergency.~~ The powers and duties of the mayor shall be such as are conferred upon him or her by the city commission in pursuance of the provisions of this Charter and no others. In the absence of the mayor, the other members of the city commission shall select one of their number to perform his or her duties.

↩ ANY CHANGES TO BE
POLICY DECISION

↩ THIS HAS BEEN GIVEN TO
THE CITY MANAGER PER
RESOLUTION 2016-43;
SUGGEST REMOVAL FROM
CHARTER

DIVISION 4. - CITY MANAGER

Sec. 4.10. - Appointment; qualifications; temporary manager during absence, etc.

The city commission shall appoint a city manager who shall be the administrative head of the municipal government under the direction and supervision of the city commission, and he or she shall hold office at the pleasure of the city commission. He or she shall be chosen solely on the basis of his or her executive and administrative qualifications, without regard to his or her political belief, and he or she need not be a resident of the city or state at the time of his or her appointment. During the absence or disability of the city manager, the city commission may designate some properly qualified person to temporarily execute the functions of the office.

↩ UPDATE LANGUAGE

Sec. 4.11. - Compensation.

↩ REMOVE AS REDUNDANT

Sec. 4.12. - Term of office.

~~The city manager of the City of St. Augustine, Florida shall serve at the pleasure of the city commission.~~

↩ REDUNDANT PER 4.10

Sec. 4.13. - Powers and duties generally.

The city manager shall be responsible to the city commission for the proper administration of all affairs of the city and to that end, his or her powers are and they shall be:

- (a) To see that the laws and ordinances are enforced;
- (b) Except as hereinafter specifically provided, to appoint and remove all subordinate officers and employees of the city; all appointments to be made upon merit and fitness alone;
- (c) To exercise control and direct supervision over all departments and divisions of the municipal government under this charter, or which may hereafter be created by the city commission;

↩ UPDATE LANGUAGE

- (d) To see that all terms and conditions imposed in favor of the city or its inhabitants in any public utility franchise are faithfully kept and performed; and upon knowledge of any violation thereof, to call the same to the attention of the city attorney whose duty it is hereby made to take such legal steps as may be necessary to enforce the same;
- (e) To attend all meetings of the city commission and of its committees, with right to take part in the discussion, but without having a vote;
- (f) To recommend to the commission for adoption such measures as he or she may deem necessary or expedient in the interest of the city;
- (g) To keep the city commission fully advised as to the financial conditions and needs of the city and to submit for its consideration an annual budget;
- (h) To perform such other duties as may be prescribed under this charter or as may be required of him by ordinance or resolution of the city commission; and
- (i) The city manager of the City of St. Augustine, Florida, or his or her designee, shall be the purchasing agent of said city by whom all purchases of supplies shall be made; and he or she shall approve all vouchers for the payment of same. In the capacity of purchasing agent he or she shall also conduct all sales of personal property which has become unnecessary or unfit for the city's use. Competitive formal bids should be solicited consistent with the city's adopted purchasing manual and state and federal law. for any single item which exceeds the purchase cost of five thousand dollars (\$5,000.00); provided, however, that when such formal bids have been received on public works construction contracts to be let by the city and they are in excess of the estimated construction costs as prepared by independent engineers or architects on behalf of the city then, and in that event, the city manager may, subject to approval of the city commission, negotiate the terms and conditions of such construction contracts with any qualified contractor, whether low bidder or otherwise, so as to bring the cost of the proposed contract within the engineers' and/or architects' estimate or the amount of money available to the city for such contract.

↩ UPDATE LANGUAGE

Sec. 4.14. - To be head of various departments.

The city manager, as the administrative officer of the city shall be the head of each department provided for under this charter and shall be responsible for its successful and businesslike operation. ~~He shall be the active head of the department of public safety and welfare, which department shall have cognizance of all matters making for the welfare of the community such as the control of its charitable and correctional institutions, and the management and supervision of all public improvements, works and undertakings of the city except as otherwise specifically provided for under this charter.~~

↩ UPDATE LANGUAGE

Sec. 4.15. - Appointment of health officer; duties.

↩ REMOVE AS OBSOLETE

Sec. 4.16. - Additional duties.

The city manager shall manage and control all city owned public utilities operated and managed by the municipality, and ~~the office of the city manager~~ shall be charged with the management and operation of all public works and the regulation by ordinances of the city commission of all charitable and correctional institutions and agencies of the city, enforce all laws, ordinances and regulations relative to the preservation and promotion of public health;

↩ UPDATE LANGUAGE

shall manage or inspect water, lighting, heating, power and transportation enterprises of the city; shall manage and control the use, construction, improvement, repair and maintenance of all recreational facilities of the city, including parks, playgrounds and public gymnasiums, bathhouses and social centers; he shall manage and supervise all public improvements, works and undertakings of the city, except as otherwise provided in this charter; he shall have charge of the construction, improvement, repair and maintenance of streets, sidewalks, alleys, lanes, bridges, viaducts, aqueducts, public highways, sewers, drains, ditches, culverts, streams, watercourses, and all public buildings; he shall manage and control market houses, crematories, sewerage disposal plants and farms, and he shall enforce all the obligations of privately owned or operated public utilities which are enforceable by the city; he shall have charge of the making and preservation of all surveys, maps, plans, drawings and estimates for such public work; the cleaning, sprinkling and lighting of streets and public places; the collection and disposal of wastes; the preservation of tools and appliances belonging to the city and pertaining to the functions of its several departments, <u>and any other duties assigned by the City Commission or prescribed for city managers.</u>	↩ UPDATE LANGUAGE
Sec. 4.17. - Assistant city manager. (a) There shall be an assistant city manager who shall be appointed by and serve during the pleasure of the city manager. The appointment shall be effective upon confirmation by the city commission. (b) The assistant city manager shall, in the absence of the city manager, perform the duties of the city manager as provided by the Charter and Ordinances of the City of St. Augustine, Florida.	↩ REMOVE LANGUAGE
<u>DIVISION 5. – CITY ATTORNEY</u> Sec. 4.18. - Qualifications.	NC
Sec. 4.19. - Special duties. The city commission shall appoint a city attorney who shall act as the legal adviser to, and attorney and counselor for, the municipality and all of its officers in matters relating to their official duties. He or she shall prepare all contracts, bonds and other instruments in writing in which the municipality is concerned and shall endorse on each his or her approval of the form and correctness thereof and no contract with the municipality shall take effect until his or her approval is so endorsed thereon. He or she shall prosecute and defend for and in behalf of the city all complaints, suits and controversies in which the city is a party. He or she shall furnish the city commission, the city manager, employees and officers of the city the head of any department or any officer or board not included in any department his or her opinion on any question of law relating to their respective powers and duties.	↩ UPDATE LANGUAGE
Sec. 4.20. - Additional duties. In addition to the duties specifically imposed under the preceding section he or she shall perform such other professional duties as may be required of him by ordinance or resolution of the city commission or as are prescribed for city attorneys under the general law of the state and which are not inconsistent with this charter and with any ordinance or resolution which may be passed by the city commission.	↩ UPDATE LANGUAGE

DIVISION 6. – CITY CLERK

Sec. 4.21. - Appointment; duties generally.

There shall be a city clerk who shall be appointed by and serve during the pleasure of the city commissioners and who, under the supervision of the city manager, shall be director of the department of records. He or she shall attend all meetings of the city commission and shall keep a journal of its proceedings, the correctness of which proceedings as entered in such journal shall be certified to after each meeting by his or her signature and by approval of the minutes by the signature of the presiding officer of the city commission. He or she shall be the custodian of the seal of the city and of all records and papers of a general character pertaining to the affairs of a municipality. He or she shall attest to the signature of the mayor-commissioner on all contracts and other documents requiring such attestation.

⇐ UPDATE LANGUAGE

Sec. 4.22. - Additional duties.

In addition to the duties specifically imposed under this Charter, the city clerk shall perform such other duties as may be required of him or her by ordinance or resolution of the city commission, as well as such as may be required by the city manager or of city clerks by the general laws of the state applicable to municipalities and not inconsistent with this Charter or with any ordinance or resolution passed by the city commission.

⇐ UPDATE LANGUAGE

Secs. 4.23–4.31. - Reserved.

DIVISION 7. – DIRECTOR OF FINANCIAL SERVICES

Secs. 4.32–4.41. - Reserved.

DIVISION 8. - RESERVED

Secs. 4.42–4.43. - Reserved.

DIVISION 9. – FIRE DEPARTMENT

Sec. 4.44. - Composition; powers and duties generally of fire chief.

The fire force of the City of St. Augustine shall consist of a chief, who shall be a fire warden, and as many subordinate professional officers, professional firemen firefighters and employees, employed on a full time basis, as the city commission shall by budget ordinance determine is reasonably required to afford fire protection to the city. In determining the level of fire protection to be afforded, the city commission shall consider the recommendations of the Insurance Service Organization, the National Fire Protection Association, the fire chief, the city manager and the level of service afforded cities of a comparable size. The fire chief shall have exclusive control of the stationing and transfer of all firemen firefighters and other officers and employees constituting the fire force, subject to such rules and regulations as may be prescribed by city manager or by ordinance of the city; he or she shall have exclusive management and control of such officers and employees as may be employed in the administration of the affairs of his or her force. In case of riot, conflagration or like emergency, the city manager may appoint additional firemen firefighters for temporary service. The fire chief shall have, subject to the remaining portions of this charter, the right to suspend any officer or employee of the fire force because of incompetency, neglect of duty, drunkenness, failure to obey orders given by proper authority or for any other just or reasonable cause and shall immediately report the fact of such suspension to the city manager for final action.

⇐ UPDATE LANGUAGE

Sec. 4.45. - Authorized working hours; exceptions.	NC
Sec. 4.46. - Same—Inapplicability of certain state law.	↩ REMOVE AS OBSOLETE
<u>DIVISION 10. – ADVISORY BOARD</u>	
Sec. 4.47. - Appointment; powers and duties; compensation.	↩ REMOVE AS OBSOLETE
<u>DIVISION 11. - RESERVED</u>	
<i>Secs. 4.48–4.50. - Reserved.</i>	----
<u>DIVISION 12. – BOARD OF TRUSTEES</u>	
<u>Sec. 4.51. - Appointment; composition; terms; powers and duties.</u> The city commission may, by ordinance or resolution, appoint a board of trustees, to be composed of three members, who shall be citizens of said city, one trustee shall be appointed for one year, one for two years, and one for three years, and shall hold office until their successors are appointed and qualified. The said trustees shall take charge of, manage, conduct and exercise all the powers necessary for the reclamation and filling in of all marsh or submerged lands acquired by said city, by purchase or otherwise, to sell and convey such reclaimed lands upon such terms, conditions and restrictions as the said trustees deem best for the interest, benefit, welfare, comfort, pleasure and convenience of the citizens of said city, and to that end are hereby authorized to do and perform any and all acts necessary.	↩ POLICY DECISION ON WHETHER TO KEEP OR REMOVE ; APPEARS TO BE OBSOLETE OR UNUSED IN RECENT HISTORY
<u>ARTICLE V. - MEETINGS, ORDINANCES, RESOLUTIONS</u>	<u>SUGGESTED CHANGES</u>
<u>DIVISION 1. - MEETINGS</u>	
Sec. 5.01. - Meetings, records, etc., to be public; rules and order of business; journal.	NC
Sec. 5.02. - Regular meetings. At <u>7:30 p.m.</u> on the first Monday in December, 1988, and thereafter at <u>7:30 p.m.</u> on the first Monday in December following each regular municipal election, the city commission shall meet at the usual place for holding the meetings of the legislative body of the city, at which time the newly elected commissioners shall assume the duties of office. Thereafter, the city commission shall meet at such time as may be prescribed by ordinance or resolution, except that it shall meet regularly not less than twice <u>once</u> each month, <u>unless such meeting is impracticable due to a federal, state, or local declaration of a state of emergency.</u>	↩ POLICY DECISION ON WHETHER TO AMEND ↩ AMENDED BY ORD 2018-14
<i>Sec. 5.03. - Reserved.</i>	----
Sec. 5.04. - Special meetings. The mayor, and two members of the city commission, or the city manager, may call special <u>or emergency</u> meetings of the commission upon at least twelve hours' written notice to each member, served personally or left at his usual place of residence.	↩ AMENDED BY ORD 2018-14

Sec. 5.05. - Absence from meetings. Absence from four consecutive regular meetings of the commission shall operate to vacate the seat of a member, unless such absence is excused by the commission by resolution setting forth the fact of such excuse, duly entered upon journal.	NC; OR POLICY DECISION (CROSS REF. SEC. 2.02)
<i>Secs. 5.06–5.11. - Reserved.</i>	----
<u>DIVISION 2. - ORDINANCES AND RESOLUTIONS</u> <u>Sec. 5.12. - [Definitions; form; reading; publication; emergency measures; effective date; recordation.]</u>	↩ REMOVE; PREEMPTED BY STATE LAW
<i>Secs. 5.13–5.15. - Reserved.</i>	----
<u>Sec. 5.16. - Ordinances submitted by petition of voters—Requirements; procedure.</u> Any proposed ordinances, including ordinances for the repeal or amendment of ordinances then in effect, may be submitted to the city commission by petition signed by at least twenty per cent of the total number of registered voters in the municipality. All petitions circulated with respect to any proposed ordinances shall be uniform in character, shall contain the proposed ordinance in full, and shall have printed or written thereon the names and addresses of at least five electors who shall be officially regarded as filing the petition and shall constitute a committee of the petitioners for the purpose hereinafter named. Each signer of the petition shall sign his name in ink or indelible pencil and shall place on the petition, opposite his name, the date of his signature and his place of residence by voting precinct or ward and by street and number. The signatures to any such petition need not all be appended to one paper, but to each such paper there shall be attached an affidavit by the circulator thereof, stating the number of signers to such part of the petition and that each signature appended to the paper is the genuine signature of the person whose name it purports to be, and that it was made in the presence of the affiant and on the date indicated.	↩ POLICY DECISION ON WHETHER TO AMEND
<u>Sec. 5.17. - Same—Petition to be filed with clerk; submission to commission.</u> All papers comprising a petition shall be assembled and filed with the city clerk as one (1) instrument within ninety (90) days of the date of the first signature thereon, and, when so filed, the clerk shall submit the same to the city commission at its next regular meeting and provision shall be made for public hearings upon the proposed ordinance.	↩ POLICY DECISION ON WHETHER TO AMEND
<u>Sec. 5.18. - Same—Consideration by commission; election may be held if rejected; new petition required.</u> The city commission shall at once proceed to consider such petition and shall take final action thereon within thirty days after the date of submission. If the city commission rejects the proposed ordinance, or passes it in a different form from that set forth in the petition, or fails to act finally upon it within the time stated, the committee of the petitioners, by written demand filed with the city clerk, may require that the proposed ordinance be submitted to a vote of the electors in its original form, if, with or prior to such demand, a petition for such	↩ POLICY DECISION ON WHETHER TO AMEND

election signed after the final action or inaction of the city commission is filed with such city clerk bearing additional signatures of five (5) per cent of the electors of the city, none of whom were signers of the first petition. The city clerk shall forthwith cause notice of the filing of such demand and petition to be published in some newspaper of general circulation in the city, and shall also, within five (5) days, certify to the city commission the proposed ordinance, stating whether or not a special election is demanded in the petition, the percentage of registered voters who signed the two (2) petitions in the aggregate, and the date on which he published the notice last mentioned.

Sec. 5.19. - Same—When election after rejection by commission may be held.

If an election is to be held not more than two (2) months nor less than thirty (30) days after the publication of such notice by the city clerk, such proposed ordinance shall be submitted to a vote of the electors at such election. If no election is to be held within the time aforesaid, the city commission shall provide for submitting the proposed ordinance to the electors at a special election to be held not later than forty-five (45) days and not earlier than thirty (30) days after the publication of the first notice, if the petitions for such ordinances and the petition for such election so demand, and if the signers of the two (2) petitions amount in the aggregate to at least twenty-five (25) per cent of the registered voters of the city; otherwise the same shall be submitted at the next regular or special municipal election. At least ten (10) days before any such election, the city clerk shall cause such ordinance to be published.

← POLICY DECISION ON WHETHER TO AMEND

Sec. 5.20. - Same—Election ballots; ordinance effective on majority vote of approval.

The ballots used when voting upon any such proposed ordinance shall state the title of the ordinance to be voted on and below it the two propositions: "For the ordinance" and "Against the ordinance."

Immediately at the left of each proposition there shall be a square in which by making a cross (X) the voter may vote for or against the proposed ordinance. If a majority of the electors voting on any such proposed ordinance shall vote in favor thereof, it shall thereupon become an ordinance of the city.

← POLICY DECISION ON WHETHER TO AMEND

Sec. 5.21. - Same—Ordinances to be approved by city attorney.

Before any ordinance so proposed shall be submitted to the city commission, it shall first be approved as to its form by the city attorney, whose duty it shall be to draft such proposed ordinance in proper legal language if called upon so to do and to render such other service to persons desiring to propose such ordinance as shall be necessary to make the same proper for consideration by the city commission.

← POLICY QUESTION AS TO WHETHER THE CC STILL WANTS CITY ATTY TO DO THIS?

Sec. 5.22. - Same—Method of amending ordinances passed by electoral vote.

No ordinance adopted by an electoral vote can be repealed or amended except by an electoral vote; but an ordinance to repeal or amend any such ordinance may, by resolution of the city commission, be submitted to an electoral vote at any regular election, or at any special municipal election called for some other purpose, provided notice of the intention to do so be published by the city commission not more than sixty days nor less than thirty days prior to such election, in the manner required for the publication of ordinances. If an amendment is so proposed, such notice shall contain the proposed amendment in full. Such submission shall be in the same manner, and the vote

← POLICY QUESTION

shall have the same effect, as in cases of ordinances submitted to an electoral vote by popular petition.	
<u>Sec. 5.23. - Zoning ordinances; amendments.</u>	↩ REMOVE; PREEMPTED BY STATE LAW
<u>Sec. 5.24. - Effective date of section 5.23.</u>	↩ REMOVE AS OBSOLETE
<u>Sec. 5.25. - Referendum petition to repeal or amend ordinances—When and where filed; contents.</u> If, at any time within said thirty days, a petition signed by thirty-five per cent of the total number of registered voters in the municipality be filed with the city clerk, requesting that any such ordinance be repealed or amended as stated in the petition, such ordinance shall not become effective until the steps indicated herein shall have been taken. Such petition shall have stated therein the names and addresses of at least five (5) electors as a committee to represent the petitioners. Referendum petitions need not contain the text of the ordinance or ordinances the repeal of which is sought, but shall contain the proposed amendment, if an amendment is demanded, and shall be subject in all other respects to the requirements for petitions submitting proposed ordinances to the city commission. Ballots used in referendum elections shall conform in all other respects to those provided for in section 2.33 [§ 5.20] of this Charter.	↩ POLICY DECISION ON WHETHER TO AMEND
<u>Sec. 5.26. - Same—Reconsideration by commission; election.</u> The city clerk shall, at its next meeting, present the petition to the city commission, which shall proceed to reconsider the ordinance. If, within thirty (30) days after the filing of such petition, the ordinance be not repealed or amended as requested, the city commission shall provide for submitting the proposed repeal or amendment to a vote of the electors, provided a majority of the committee named in the petition to represent the petitioners shall be [in] writing, filed with the city clerk within twenty (20) days after the expiration of the said thirty (30) days, so required. In so doing the city commission shall be governed by the provisions of section 200 [§ 5.19] of this Charter respecting the time of submission and the manner of voting on ordinances proposed to the city commission by petition; excepting that the question of calling a special election for such purpose shall be determined by the demand and number of signers of the petition requesting the repeal of amendment of such ordinance, which number shall be not less than twenty-five (25) per cent of the registered voters; and excepting, further, that the city commission may call, and fix the time for a special election for such purpose if, in its judgment, the public interest will be prejudiced by delay. If, when submitted to a vote of the electors, such repeal or amendment be approved by a majority of those voting thereon, it shall thereupon go into effect as an ordinance of the city; but if any such amendment is clearly separable from the remainder of the ordinance and does not materially affect the other provisions of such ordinance, all sections of the ordinance except that sought to be amended and those dependent thereon shall take effect as though no referendum of any portion of the ordinance had been demanded.	↩ POLICY DECISION ON WHETHER TO AMEND
<u>Sec. 5.27. - Same—Ordinances submitted by initiative petition subject to referendum.</u> Ordinances submitted to the city commission by initiative petition and passed by the city commission without change, or passed in amended form, and not required to be submitted to a vote of the electors by the committee of the petitioners, shall be subject to the referendum in the same manner as other	↩ POLICY DECISION ON WHETHER TO AMEND

ordinances. If the provisions of two or more ordinances adopted or approved at the same election conflict, the ordinance receiving the highest affirmative vote shall prevail.	
<u>Sec. 5.28. - Same—Applicable to emergency ordinances.</u> Ordinances passed as emergency measures shall be subject to referendum in like manner as other ordinances, except that they shall go into effect at the time indicated in such ordinances. If, when submitted to a vote of the electors, an emergency measure be not approved by a majority of those voting thereon, it shall be considered repealed as regards any further action thereunder, but such measures so repealed shall be deemed sufficient authority for the payment in accordance with the ordinance of any expenses incurred previous to the referendum vote thereon.	↩ POLICY QUESTION: MAY WANT TO DISCUSS HOW EMERGENCY DECISIONS SHOULD BE HANDLED, I.E. CITY MANAGER (SEE CROSS REF 4.09 AND RESOLUTION)
<u>Sec. 5.29. - Preliminary steps may be taken before petitioned election is held.</u> In case a petition be filed requiring that a measure passed by the city commission providing for an expenditure of money, a bond issue or a public improvement be submitted to a vote of the electors, all steps preliminary to such actual expenditure, actual issuance of bonds, or actual execution of a contract for such improvement may be taken prior to the election.	↩ POLICY DECISION ON WHETHER TO AMEND
<u>ARTICLE VI. - ELECTIONS</u>	<u>SUGGESTED CHANGES</u>
<u>DIVISION 1. - REGISTRATION OF ELECTORS</u> <u>Sec. 6.01. - St. Johns County registration system to be used.</u>	↩ REMOVE; SUPERSEDED
<u>Secs. 6.02—6.13. - Reserved.</u>	----
<u>DIVISION 2. - PRIMARY AND GENERAL ELECTIONS</u> <u>Sec. 6.14. - When elections to be held.</u> The primary and general elections for the election of city commissioners of the City of St. Augustine, Florida, shall be as follows: The primary election shall be held on the Tuesday ten (10) weeks prior to the general election, and the general election shall be held on the first Tuesday after the first Monday of November, 2014, and thereafter primary elections shall be held on the Tuesday ten (10) weeks prior to the general election of each even numbered year and the general elections shall be held on the first Tuesday after the first Monday in November of each even numbered year.	↩ POLICY QUESTION ON WHETHER TO UPDATE; COULD DEFER TO STATE ELECTIONS LAW ON PRIMARY AND GENERAL ELECTIONS
<u>Sec. 6.15. - When primary and general elections not necessary.</u> If only one (1) candidate qualifies for a group, a primary and general election for that group shall not be necessary. If only two (2) candidates qualify for a group, then their names only shall be placed on the ballot for that group in the general election and a primary election for that group shall not be necessary. If more than two (2) candidates qualify for a group, a primary election shall be necessary for that group. The names of unopposed candidates shall not appear on the primary or general election ballot. Each unopposed candidate shall be deemed to have voted for himself or herself.	↩ POLICY QUESTION TO UPDATE THIS
<u>Sec. 6.16. - Reserved.</u>	----

<u>Sec. 6.17. - Qualifications of voters.</u>	↩ REMOVE; SUPERSEDED BY STATE LAW
<u>Sec. 6.18. - Arrangements; appointment of chairman of city canvassing board, inspectors and clerk.</u> The city commission shall make necessary arrangements for holding all municipal elections and appoint a canvassing board who shall canvass and declare the results thereof. The canvassing board shall be comprised of the city attorney, the officer before whom the candidate for office qualified, and a member of the city commission who will act as chairman. The chairman of the canvassing board shall be selected from among the members of the city commission by the mayor-commissioner. The chairman of the canvassing board shall not be a candidate with opposition in the election being canvassed nor an active participant in the campaign or candidacy of any candidate with opposition in the election being canvassed. If the chairman of the canvassing board is unable to serve or is disqualified, the mayor-commissioner shall appoint as a substitute another member with the same qualifications. If a substitute member cannot be appointed as provided elsewhere in this subsection, the city commission shall appoint as a substitute member a qualified elector of the city who is not a candidate with opposition in the election being canvassed and who is not an active participant in the campaign or candidacy of any candidate with opposition in the election being canvassed.	↩ SUGGESTED THAT THIS CONFORM TO STATE / COUNTY, NOT SEPARATE, AS IS CURRENT PRACTICE
<u>Sec. 6.19. - When polls are open; ascertainment of canvass of returns; declaration of result; certification of election.</u>	↩ SUGGEST THIS CONFORM TO SUPERVISOR OF ELECTIONS AND STATE ELECTIONS LAW.
<u>Sec. 6.20. - Paper ballots.</u> The whole number of paper ballots to be printed for any primary or general municipal election for the nomination or election of candidates for the office of city commissioner shall be divided by the number of such candidates, and the quotient so obtained shall be divided by the number of ballots in each series of ballots to be printed. The names of the candidates shall be arranged in alphabetical order for each group in the first series of ballots printed. The first names shall then be placed last and the next series of ballots printed, and this process shall be repeated until each name shall have been first. These ballots shall then be combined into tablets, or pads, with no two of the same order of name together. The ballots shall in all other respects conform as nearly possible to the form of ballots prescribed by the general election law of the State of Florida.	↩ SUGGESTED THIS CONFORM TO STATE, COUNTY PROCEDURE
<u>Sec. 6.20.1. - Voting machine ballots.</u> Voting machine ballots shall conform to the form of ballots prescribed by the general election law of the State of Florida.	↩ REDUNDANT (<i>SEE 6.26</i>) SUGGESTED THAT IT SIMPLY CONFORM TO STATE LAW & COUNTY SUP. OF ELECTIONS.
<u>Sec. 6.21. - Nomination of commissioners; petition required; regulations for petitioners; payment of qualification fee; groups.</u> Candidates for the office of city commissioner shall be nominated at a nonpartisan primary election where there are more than two (2) persons nominated for each office to be filled as hereinafter provided. Any person possessing the qualifications set forth in this Charter shall be entitled to have	↩ POLICY DECISION ON WHETHER TO AMEND

his or her name printed upon the ballot at the primary election by written petition circulated by such candidate or on his or her behalf, signed by at least twenty-five (25) qualified electors of the City of St. Augustine, Florida. Each of said petitioning electors shall in all respects be qualified to vote in the ensuing general election to be held in the City of St. Augustine, Florida. Such written petition shall be filed with the appropriate filing officer no earlier than noon of the 71st day, and no later than noon of the 67th day, before the first primary election or the same will not be recognized. Each petitioner signing said petition shall add after his or her signature, his or her place of residence, including street and number, and voting precinct, and also the date of the signing of said petition. Each petitioner may subscribe to one nominating petition for each office to be filled and no more. All signatures shall be written in ink or indelible pencil or the same shall not be recognized. Each candidate so nominated shall, upon his or her acceptance of such nomination as provided in this Charter, pay to the qualifying officer at the time of qualifying the sum of twenty-five [dollars] (\$25.00) as his or her qualification fee. Candidates shall run in three (3) groups designated as Group One, Group Two and Group Three; and each voter may vote for one candidate in each group. The nominating petition of each candidate shall indicate the group in which his or her name is to appear on the ballot; that is to say, whether in Group One, Group Two, or Group Three; and unless so indicated, the petition shall be deemed a nullity. No candidate's name in any primary or general election shall be printed on the ballot if said candidate has notified the officer before whom the candidate qualified in writing, under oath, no later than noon the thirtieth day prior to the primary election, that he or she will not accept the nomination or office for which he or she filed qualification papers. The candidate who has withdrawn as a candidate for one group may qualify as a candidate for a different group, provided he or she complies with all the qualification procedures provided herein.

Sec. 6.22. - Reserved.

Sec. 6.23. - Primary and general election; when candidate deemed elected; tie votes.

- (a) In the primary election and in the general election to be held in May, 1969, and in each primary election and in each general election thereafter, the candidates for city commission shall run in three groups designated as Group One, Group Two and Group Three, and each voter may vote for one candidate in each group. In the general election, the successful candidates in Group One and Group Two shall be elected for a full term of four years and the successful candidate in Group Three shall be elected for a full term of two years.
- (b.1) At the primary election, if a candidate receives a majority of the votes cast in his group, then his or her name shall not be placed on the ballots for that group in the general election. Each unopposed candidate shall be deemed to have voted for himself or herself. In the event that a candidate in any group does not receive a majority of the votes cast in his group, then, subject to the provisions of subsections (b.2) and (b.3) of this section, the names of the candidates placing first and second in that group, and their names only, shall be placed on the ballots for that group in the general election.
- (b.2) In all primary elections where there is a tie for first place in any group, the names of, and only the names of, the candidates so tying shall be placed on the ballots for that group at the general election.

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(b.3) In all primary elections where there is a tie for second place in any group and the candidate placing first in that group did not receive a majority of the votes cast in that group, then the names of, and only the names of, the candidates placing first and tying for second in that group shall be placed on the ballots in the general election. (c) In any general election the candidate in each group receiving the highest number of votes, is and shall be deemed, held and declared to be the person elected. In the event there shall be a tie vote in any general election, between two or more persons receiving the highest number of votes in any group, the tie vote shall be decided by lot to be conducted by the city attorney, city manager and city clerk.	
Sec. 6.24. - General laws of state to apply.	NC (*NOTE: THIS SHOULD BE USED FOR OTHER ELECTION REQUIREMENTS IN CHARTER)
Sec. 6.25. - Charter amendments. Amendments to this Charter may be <u>adopted by ordinance consistent with Florida law, or may be</u> submitted to the electors of the city by a two-thirds vote of the city commission, and, by petition signed by thirty-five (35) per cent of the electors of the city setting forth any such proposed amendment, shall be submitted by action of the city commission unless such amendments are authorized by the state Municipal Home Rule Powers Act. The ordinance providing for the submission of any such amendment, other than that authorized by the state Municipal Home Rule Powers Act, shall require that it be submitted to the electors at the next regular municipal election if one shall occur not less than sixty (60) days and not more than one hundred twenty (120) days after its passage; otherwise it shall provide for the submission of the amendment at a special election to be called and held within the time aforesaid. If such amendment is approved by a majority of the electors voting thereon, it shall become a part of the Charter at the time fixed therein.	↩ UPDATE LANGUAGE
Sec. 6.26. - Use of voting machines. The city commission of the City of St. Augustine, Florida, may authorize the use of voting machines in any municipal election; providing that the voting procedure, voting machine ballot, and the requirements of voting machines shall be in accordance with the Florida Election Code.	↩ REDUNDANT (SEE 6.20.1)
Secs. 6.27–6.31. - Reserved.	----
<u>DIVISION 3. - RECALL OF COMMISSION MEMBERS</u> Sec. 6.32. - Petition for recall. <i>State Law reference—Municipal recall provisions superseded, F.S. 100.361(10).</i>	↩ CLEAN UP; ALL ITEMS SUPERSEDED SHOULD BE REMOVED IN A REVISION
Secs. 6.33–6.40. - Reserved.	----
<u>ARTICLE VII. - TAXATION</u>	<u>SUGGESTED CHANGES</u>
<u>DIVISION 1, - ASSESSMENT AND COLLECTION OF TAXES</u> Sec. 7.01. - Real property defined.	↩ REMOVE; PREEMPTED BY STATE LAW

Sec. 7.02. - Description of property; assessment of real and personal property to be separate; liens; cost of collection.	↩ REMOVE; PREEMPTED BY STATE LAW
Sec. 7.03. - Assessment on land illegally sold, omitted from roll, etc.	↩ REMOVE; PREEMPTED BY STATE LAW
Sec. 7.04. - Percentage of taxation based on valuation in assessment roll; taxes to be uniform, etc.	↩ REMOVE; PREEMPTED BY STATE LAW
Sec. 7.05. - When taxes assessed.	↩ REMOVE; PREEMPTED BY STATE LAW
Sec. 7.06. - Assessment listed in owner's name or unknown; failure of owner to make return.	↩ REMOVE; PREEMPTED BY STATE LAW
Sec. 7.07. - Returns; when due; information contained.	↩ REMOVE; PREEMPTED BY STATE LAW
Sec. 7.08. - When tax books close; penalties.	↩ REMOVE; PREEMPTED BY STATE LAW
Sec. 7.09. - Validation of installment tax trust fund.	↩ REMOVE; PREEMPTED BY STATE LAW
Sec. 7.10. - Sale of land for delinquent taxes—When authorized; statement of land to be sold to be posted and published; form of notice.	↩ REMOVE; PREEMPTED BY STATE LAW
Sec. 7.11. - Same—Disposition of copies of published notice.	↩ REMOVE; PREEMPTED BY STATE LAW
Sec. 7.12. - Same—Procedure.	↩ REMOVE; PREEMPTED BY STATE LAW
Sec. 7.13. - General laws to apply to tax assessment.	↩ REMOVE; PREEMPTED BY STATE LAW
Sec. 7.14. - City plats.	↩ REMOVE; PREEMPTED BY STATE LAW
Sec. 7.15. - Cancellation of tax certificates.	↩ REMOVE; PREEMPTED BY STATE LAW
Sec. 7.16. - Redemption of tax certificates.	↩ REMOVE; PREEMPTED BY STATE LAW
Sec. 7.17. - Certificate to be cancelled when taxes are higher than certificate.	↩ REMOVE; PREEMPTED BY STATE LAW
Sec. 7.18. - Collection of unpaid, etc., taxes; basis of valuation.	↩ REMOVE; PREEMPTED BY STATE LAW
Sec. 7.19. - Entries on tax assessment roll.	↩ REMOVE; PREEMPTED BY STATE LAW
Sec. 7.20. - Taxation of railroad property.	↩ REMOVE; PREEMPTED BY STATE LAW
Sec. 7.21. - Certain buildings, wharves, etc., to be taxed as personal property.	↩ REMOVE; PREEMPTED BY STATE LAW
Sec. 7.22. - When personal tax assessments are enforceable.	↩ REMOVE; PREEMPTED BY STATE LAW

Sec. 7.23. - Incorrect assessments.	↩ REMOVE; PREEMPTED BY STATE LAW
Sec. 7.24. - Calculations, etc., by tax assessor; certification; examination by commission; commission's certification.	↩ REMOVE; PREEMPTED BY STATE LAW
Sec. 7.25. - Assessor to transmit original roll to collector.	↩ REMOVE; PREEMPTED BY STATE LAW
Sec. 7.26. - Failure to make tax levy.	↩ REMOVE; PREEMPTED BY STATE LAW
Sec. 7.27. - Taxes, assessments, etc., to constitute lien.	↩ REMOVE; PREEMPTED BY STATE LAW
Sec. 7.28. - Validity of assessments and certificates.	↩ REMOVE; PREEMPTED BY STATE LAW
Sec. 7.29. - When taxes due and payable.	↩ REMOVE; PREEMPTED BY STATE LAW
Sec. 7.30. - Sale of personal property; notice; attachment.	↩ REMOVE; PREEMPTED BY STATE LAW
Sec. 7.31. - General laws to apply to collection, sales, etc.	↩ REMOVE; PREEMPTED BY STATE LAW
Sec. 7.32. - Land erroneously sold.	↩ REMOVE; PREEMPTED BY STATE LAW
Sec. 7.33. - Tax sale certificate.	↩ REMOVE; PREEMPTED BY STATE LAW
Sec. 7.34. - List of property sold, etc., required; disposition.	↩ REMOVE; PREEMPTED BY STATE LAW
Sec. 7.35. - Tax certificates purchased by city.	↩ REMOVE; PREEMPTED BY STATE LAW
Sec. 7.36. - Tax certificates are transferable.	↩ REMOVE; PREEMPTED BY STATE LAW
Sec. 7.37. - Redemption of property.	↩ REMOVE; PREEMPTED BY STATE LAW
Sec. 7.38. - Redemption to be recorded.	↩ REMOVE; PREEMPTED BY STATE LAW
Sec. 7.39. - State law as to redemption to be followed.	↩ REMOVE; PREEMPTED BY STATE LAW
Sec. 7.40. - Tax deed to be issued after failure to redeem; when issued; application; form.	↩ REMOVE; PREEMPTED BY STATE LAW
Sec. 7.41. - Foreclosure of tax certificates—By chancery suit.	↩ REMOVE; PREEMPTED BY STATE LAW
Sec. 7.42. - Same—Service of process against nonresident; cost.	↩ REMOVE; PREEMPTED BY STATE LAW
Sec. 7.43. - Recovery of land subject to tax deed; statute of limitations.	↩ REMOVE; PREEMPTED BY STATE LAW

Sec. 7.44. - Settlement of delinquent taxes=Waiver of interest and/or penalties.	↩ REMOVE; PREEMPTED BY STATE LAW
Sec. 7.45. - Same=Authority in general.	↩ REMOVE; PREEMPTED BY STATE LAW
Sec. 7.46. - Payment for land sold for taxes.	↩ REMOVE; PREEMPTED BY STATE LAW
<i>Secs. 7.47 - 7.52. - Reserved.</i>	----
<u>DIVISION 2. - TAX EQUALIZATION BOARD</u>	
Sec. 7.53. - Composition; meetings; notices; powers and duties.	↩ REMOVE; PREEMPTED BY STATE LAW
Sec. 7.54. - Quorum; adjournments; clerks.	↩ REMOVE; PREEMPTED BY STATE LAW
<i>Secs. 7.55 - 7.60. - Reserved.</i>	----
<u>DIVISION 3. - LICENSES</u>	
Sec. 7.61. - Generally.	↩ REMOVE; PREEMPTED BY STATE LAW
Sec. 7.62. - General state laws to apply to licenses; evidence of necessity to pay license.	↩ REMOVE; PREEMPTED BY STATE LAW
<i>Secs. 7.63 - 7.68. - Reserved.</i>	----
<u>DIVISION 4. - ANNUAL TAX LEVY</u>	
Sec. 7.69. - Authorized.	↩ REMOVE; SUPERSEDED BY STATE LAW
<i>Secs. 7.70 - 7.74. - Reserved.</i>	----
<u>DIVISION 5. - GASOLINE TAXES</u>	
Sec. 7.75. - Exemption from certain state gasoline tax.	↩ REMOVE AS OBSOLETE
Sec. 7.76. - Authority to levy and collect tax.	↩ REMOVE AS OBSOLETE
Sec. 7.77. - Referendum clause.	↩ REMOVE AS OBSOLETE
<u>ARTICLE VIII. - MUNICIPAL COURT</u>	<u>SUGGESTED CHANGES</u>
Sec. 8.01. - Created; appointment of judge; absence or disability of judge; sessions; judge's powers generally.	↩ REMOVE AS OBSOLETE
Sec. 8.01.1. - Municipal judge; Florida Bar membership required.	↩ REMOVE AS OBSOLETE
Sec. 8.02. - Jurisdiction; warrants; writs; processes; service; bail; oaths.	↩ REMOVE AS OBSOLETE
Sec. 8.02.1. - Search warrants.	↩ REMOVE AS OBSOLETE

Sec. 8.03. - Fines and costs; appeals bond.	↩ REMOVE AS OBSOLETE
Sec. 8.04. - Appeals=Procedure.	↩ REMOVE AS OBSOLETE
Sec. 8.05. - Same=Duty of clerk.	↩ REMOVE AS OBSOLETE
Sec. 8.06. - Reserved.	----
Sec. 8.06.1. - Municipal court clerk=Appointment; term.	↩ REMOVE AS OBSOLETE
Sec. 8.06.2. - Same=Duties.	↩ REMOVE AS OBSOLETE
Sec. 8.07. - Estreated bonds.	↩ REMOVE AS OBSOLETE
Sec. 8.08. - Contempts; disposition of funds.	↩ REMOVE AS OBSOLETE
Sec. 8.09. - Police chief to serve as court attendant.	↩ REMOVE AS OBSOLETE
Sec. 8.10. - Persons imprisoned may be required to labor; limitations.	↩ REMOVE AS OBSOLETE
Sec. 8.11. - Remission of fines; suspension of sentences.	↩ REMOVE AS OBSOLETE
<u>ARTICLE IX. - POLICE DEPARTMENT</u>	<u>SUGGESTED CHANGES</u>
Sec. 9.01. - Jurisdiction; Anastasia Island.	↩ REMOVE AS OBSOLETE
Sec. 9.01.1. - Hot pursuit within St. Johns County.	↩ REMOVE AS OBSOLETE
Sec. 9.02. - Arrests.	↩ REMOVE AS OBSOLETE
Sec. 9.03. - Chief and jail officers to take bond from persons arrested.	↩ REMOVE AS OBSOLETE
Sec. 9.04. - Composition; chief to control force. The Police Force of the City of St. Augustine shall consist of a chief of police and as many subordinate officers, policemen <u>officers</u> and employees, employed on a full time basis, as the city commission shall by ordinance in its annual budget determine is reasonably required to enforce the law. The chief of police shall have exclusive control of the stationing and transfer of all patrolmen <u>police officers</u> and other officers and employees constituting the police force, subject to the approval of the city manager and under such rules and regulations as the city commission may prescribe or as may be prescribed by the ordinances of the city.	↩ UPDATE LANGUAGE
Sec. 9.05. - Additional policemen during emergencies. In case of riot or other grave emergency and during elections or similar occasions, the city manager may appoint additional patrolmen and police officers for temporary service. No person shall act as a special policeman officer, special detective or other special police officer for any purpose whatsoever, except on written authority of the city manager. Such authority shall be exercised only under the direction and control of the chief of police for a specified time.	↩ UPDATE LANGUAGE

Sec. 9.06. - Powers and duties generally of chief. The chief of police shall attend all meetings of the city commission and aid in the enforcement of order under the direction of the presiding officer. He <u>or she</u> shall execute the commands of the city commission and all processes issued by authority thereof which shall be issued to him <u>or her</u> by the mayor. He <u>or she</u> shall perform such other duties appropriate to <u>his that</u> office as may be imposed upon him <u>or her</u> by law, the ordinances of the city, and by direction of the city manager, consistent with this Act. He <u>or she</u> shall have the right to suspend any officer or employee of the police force because of incompetency, neglect of duty, immorality, drunkenness, failure to obey orders given by proper authority or for any other just and reasonable cause and he <u>or she</u> shall immediately report the fact of such suspension to the city manager for final action.	↩ UPDATE LANGUAGE
Sec. 9.07. - Abandoned or unclaimed property—Sale.	NC
<u>Sec. 9.08. - Same—To be retained for six months statutory period.</u> No property as set forth in the preceding section shall be sold until after the expiration of <u>six months the minimum statutory period</u> from the time that such lost, abandoned or unclaimed property shall come into the possession of the Police Department of the City of St. Augustine, Florida. <u>The department shall comply with the notice provisions of Florida law for the intended disposition of the property.</u>	↩ UPDATE TO MATCH STATE STATUTE
Sec. 9.09. - Same—Notice of sale. Public notice of the time and place of such sale with a description of the property shall be published in a newspaper of general circulation published in the City of St. Augustine, Florida <u>consistent with Florida law. ten (10) days prior to the date of such sale, one insertion of such notice of sale being sufficient.</u>	↩ UPDATE TO MATCH STATE STATUTE
Sec. 9.10. - Same—Disposition of funds from sale. All funds derived from the sale of such lost, abandoned or unclaimed property shall be paid to the <u>City, St. Augustine Police Benevolent Association, Inc., a corporation not for profit, and be disbursed for the uses and purposes provided by such corporation.</u>	↩ UPDATE TO MATCH EXISTING PRACTICE
<i>Secs. 9.11 - 9.12. - Reserved.</i>	----
<u>ARTICLE X. - POLICE OFFICERS RETIREMENT SYSTEM</u>	<u>SUGGESTED CHANGES</u>
Sec. 10.01. - System and fund created.	NC
Sec. 10.02. - Definitions.	NC
Sec. 10.03. - Creation and maintenance of the fund.	NC
Sec. 10.04. - Board of trustees.	NC
Sec. 10.045. - City attorney to represent board of trustees. The city attorney shall give advice to said board of trustees in all matters pertaining to their duties in the administration of said municipal police officers' retirement trust fund whenever requested; and he <u>or she</u> shall represent and	↩ UPDATE LANGUAGE

defend said board as its attorney in all suits and actions at law or in equity that may be brought against it, and bring all suits and actions in its behalf that may be required or determined upon by said board; provided, however, that if the board of trustees so elects, it may employ independent legal counsel at the pension fund's expense for the purposes contained herein, together with such other professional, technical, or other advisers as the board deems necessary.	
Sec. 10.05. - Management of the funds.	NC
Sec. 10.06. - Participation in the system.	NC
Sec. 10.07. - Contributions to the fund.	NC
Sec. 10.08. - Service retirement.	NC
Sec. 10.09. - Optional modes of pension.	NC
Sec. 10.10. - Disability retirement.	NC
Sec. 10.11. - Benefits upon death or termination.	NC
Sec. 10.12. - Miscellaneous.	NC
Sec. 10.13. - Deferred retirement option program for police officers (DROP).	NC
Sec. 10.14. - Rollovers or transfers into the fund.	NC
Sec. 10.15. - Maximum pension benefits.	NC
Sec. 10.16. - Share plan.	NC
<u>ARTICLE X.5. – CIVIL SERVICE</u>	<u>SUGGESTED CHANGES</u>
Sec. 10.5.01. - Civil service employees.	NC
Sec. 10.5.02. - Definitions.	NC
Sec. 10.5.03. - Employment included in provisions of this chapter [article].	NC
Sec. 10.5.04. - Civil service board created.	NC
Sec. 10.5.05. - Rules and regulations; investigations concerning enforcement; annual report.	NC
Sec. 10.5.06. - Examinations, eligible lists, grades, certification, vacancies and promotions.	NC
Sec. 10.5.07. - Suspension of examination and requirements for filling vacancy when competition is impracticable.	NC

Sec. 10.5.08. - Command of police and fire departments. The chief of police and fire departments of the city shall be in command of said police and fire departments and subject to the provisions of the City Charter relating to the duties and responsibilities of the city manager. When the city commission of the city shall determine that an emergency exists, caused by riot, rebellion or public calamity, the mayor <u>city manager or his or her designee</u> may be directed to take charge of said police department and command the same during the existence of said emergency only.	↩ UPDATE LANGUAGE TO BE CONSISTENT WITH RESOLUTION 2016-43
Sec. 10.5.09. - City commission fixes pay and controls number of employees in each grade; seniority list.	NC
Sec. 10.5.10. - Discharge of permanent employee.	NC
Sec. 10.5.11. - Hearing on appeal of discharged employee.	NC
Sec. 10.5.12. - Proceedings of hearing.	NC
Sec. 10.5.13. - Failure to appear.	NC
Sec. 10.5.14. - Civil service board may initiate investigation and prefer charges.	NC
Sec. 10.5.15. - Suspension of permanent employee; right to appeal.	NC
Sec. 10.5.16. - Disqualified for further examinations.	NC
Sec. 10.5.17. - Rank, grade and seniority held at time of adoption of ordinance [article] retained.	NC
<u>ARTICLE XI. - BONDS</u>	<u>SUGGESTED CHANGES</u>
Sec. 11.01. - Limitations on power to issue bonds; election. Editor's note— Section 11.01 was derived from Laws of Fla. (1925) ch. 11148, § 146; Laws of Fla. (1929) ch. 14375, § 62. It has been deleted as a limitation on power that was repealed by F.S. ch. 166. F.S. § 166.101 et seq. provides full authority to issue bonds. The city commission my issues bonds consistent with state and federal law.	↩ AMEND TO GENERALLY STATE AUTHORITY
Sec. 11.02. - Refunding bonds.	↩ RECOMMEND REMOVAL; REPEALED BY CH. 166 F.S.
Sec. 11.03. - Bonds to be signed and attested; coupons; registrations; full faith and credit of city pledged; when bonds mature.	↩ RECOMMEND REMOVAL; REPEALED BY CH. 166 F.S.
Sec. 11.04. - Sale of bonds.	↩ RECOMMEND REMOVAL; REPEALED BY CH. 166 F.S.
Sec. 11.05. - Credit pledged to pay bonds; property tax levy for payment of bonds.	↩ RECOMMEND REMOVAL; REPEALED BY CH. 166 F.S.
Sec. 11.06. - Board of bond trustees—Established; appointment; oath; bond required of members; powers generally; accounts; secretary; terms.	↩ RECOMMEND REMOVAL; DELETED AS OBSOLETE

Sec. 11.07. - Same—Duties generally.	↩ RECOMMEND REMOVAL; DELETED AS OBSOLETE
Sec. 11.08. - Retirement of bonds.	↩ RECOMMEND REMOVAL; REPEALED BY CH. 166 F.S.
ARTICLE XII. - PUBLIC IMPROVEMENTS; SPECIAL ASSESSMENTS	SUGGESTED CHANGES
Sec. 12.01. - Modification of improvement contracts. Editor's note— Section 12.01 was derived from Laws of Fla. (1925) ch. 11148, § 155. It assumed ordinance status pursuant to F.S. ch. 166 and has been transferred into the Code of Ordinances. <u>The city commission shall have the power to impose special assessments as provided for by state and local regulations.</u>	↩ AMEND TO GENERALLY STATE AUTHORITY
Sec. 12.02. - Aggregate of contracts not to exceed estimates.	↩ RECOMMEND REMOVAL; TRANSFERRED TO CODE OF ORDINANCES
Sec. 12.03. - Improper contracts void.	↩ RECOMMEND REMOVAL; TRANSFERRED TO CODE OF ORDINANCES
Sec. 12.04. - Commission may declare improvements necessary; service of notice; return; publication.	↩ RECOMMEND REMOVAL; TRANSFERRED TO CODE OF ORDINANCES
Sec. 12.05. - Procedure when assessments are not paid within specified time.	↩ RECOMMEND REMOVAL; TRANSFERRED TO CODE OF ORDINANCES
Sec. 12.06. - Borrowing money in anticipation of unpaid special assessments.	↩ RECOMMEND REMOVAL; REPEALED BY CH. 166 F.S.
Sec. 12.07. - Weeds and rubbish; assessments for removal. The city commission shall have power to provide by ordinance for assessing against the abutting property the cost of removing from sidewalks all accumulations of weeds or rubbish, and for assessing against property the cost of cutting and removing therefrom of noxious weeds or rubbish, including debris resulting from fires or the demolition of buildings or other structures.	NC
Sec. 12.08. - Assessments for public improvements not to be made until bids for labor and costs are received.	↩ RECOMMEND REMOVAL; TRANSFERRED TO CODE OF ORDINANCES
Sec. 12.09. - Authority to levy special assessments for local improvements.	↩ RECOMMEND REMOVAL; TRANSFERRED TO CODE OF ORDINANCES
Sec. 12.10. - Assessments to be in proportion to property benefited.	↩ RECOMMEND REMOVAL; TRANSFERRED TO CODE OF ORDINANCES
Sec. 12.11. - Resolution—Required; contents.	↩ RECOMMEND REMOVAL; TRANSFERRED TO CODE OF ORDINANCES

Sec. 12.12. - Same—Plans and specifications.	↩ RECOMMEND REMOVAL; TRANSFERRED TO CODE OF ORDINANCES
Sec. 12.13. - Same—Publication.	↩ RECOMMEND REMOVAL; TRANSFERRED TO CODE OF ORDINANCES
Sec. 12.14. - Tax assessment roll; procedure; contents; apportionment based on benefits.	↩ RECOMMEND REMOVAL; TRANSFERRED TO CODE OF ORDINANCES
Sec. 12.15. - Hearings; protests; modification of proposal; correction of assessment roll; ordinance required; contents; notice.	↩ RECOMMEND REMOVAL; TRANSFERRED TO CODE OF ORDINANCES
Sec. 12.16. - Action of commission upon hearing of protests.	↩ RECOMMEND REMOVAL; TRANSFERRED TO CODE OF ORDINANCES
Sec. 12.17. - Clerk to transmit confirmed and certified roll to chief accountant.	↩ RECOMMEND REMOVAL; TRANSFERRED TO CODE OF ORDINANCES
Sec. 12.18. - Claims for damages because of improvements.	↩ RECOMMEND REMOVAL; TRANSFERRED TO CODE OF ORDINANCES
Sec. 12.19. - Special assessments collected as ad valorem taxes; payment in installments; interest; lien against property assessed.	↩ RECOMMEND REMOVAL; TRANSFERRED TO CODE OF ORDINANCES
Sec. 12.20. - Procedure for settlement of claims; judicial determination; notice to city by claimant.	↩ RECOMMEND REMOVAL; TRANSFERRED TO CODE OF ORDINANCES
Sec. 12.21. - Duty of city manager upon adoption of ordinance; payments by city for improvement.	↩ RECOMMEND REMOVAL; TRANSFERRED TO CODE OF ORDINANCES
Sec. 12.22. - Rebates; supplemental assessments.	↩ RECOMMEND REMOVAL; TRANSFERRED TO CODE OF ORDINANCES
Sec. 12.23. - Reassessments.	↩ RECOMMEND REMOVAL; TRANSFERRED TO CODE OF ORDINANCES
Sec. 12.24. - Owner may pay assessment at any time; no bar to supplementary assessments.	↩ RECOMMEND REMOVAL; TRANSFERRED TO CODE OF ORDINANCES
Sec. 12.25. - Legality of special assessments may be contested within thirty days.	↩ RECOMMEND REMOVAL; TRANSFERRED TO CODE OF ORDINANCES

Sec. 12.26. - Improvement bonds—Issuance authorized; conditions.	↩ RECOMMEND REMOVAL; TRANSFERRED TO CODE OF ORDINANCES
Sec. 12.27. - Same—Bonds issued on abutting property not previously pledged.	↩ RECOMMEND REMOVAL; TRANSFERRED TO CODE OF ORDINANCES
Sec. 12.28. - Same—General requirements.	↩ RECOMMEND REMOVAL; TRANSFERRED TO CODE OF ORDINANCES
<u>ARTICLE XIII. - STREETS AND SIDEWALKS</u>	<u>SUGGESTED CHANGES</u>
Sec. 13.01. - Issuance of certificates of indebtedness by city commission for street and public improvements; pledge of utility tax.	NC
Sec. 13.02. - Pipe connections to be made before paving streets.	↩ REMOVE; SUPERSEDED
Sec. 13.03. - Supervision and control.	NC
Sec. 13.04. - Commission may cause streets to be widened, straightened, opened, or closed.	NC
Sec. 13.05. - Public streets must be dedicated as such. No street or alley hereafter dedicated to public use by the owner of any land within the city shall be deemed a public street or alley, or under the care or control of the city, unless the dedication be accepted and confirmed by ordinance passed for such purpose, or unless the provisions of this Charter relating to platting subdivisions shall have been complied with.	↩ REMOVE LANGUAGE
Sec. 13.06. - Procedure for vacating streets.	NC
Sec. 13.07. - City manager to be supervisor of plats, etc.	↩ RECOMMEND REMOVAL; REPEALED BY CH. 166 F.S.
Sec. 13.08. - Public streets must be approved by supervisor of plats; exception.	↩ RECOMMEND REMOVAL; REPEALED BY CH. 166 F.S.
<u>ARTICLE XIV. - FINANCES</u>	<u>SUGGESTED CHANGES</u>
<u>DIVISION 1. - IN GENERAL</u>	
Sec. 14.01. - Fiscal year.	↩ RECOMMEND REMOVAL; TRANSFERRED TO CODE OF ORDINANCES
Sec. 14.02. - City manager to submit budget to commission; information required.	↩ RECOMMEND REMOVAL; TRANSFERRED TO CODE OF ORDINANCES
Sec. 14.03. - Budget estimate to be filed with chief accountant.	↩ RECOMMEND REMOVAL; TRANSFERRED TO CODE OF ORDINANCES
Sec. 14.04. - Budget estimate to be basis for tax levies and appropriations.	↩ RECOMMEND REMOVAL; TRANSFERRED TO CODE OF ORDINANCES

Sec. 14.05. - Exceeding budget estimate.	↩ RECOMMEND REMOVAL; REPEALED BY CH. 166 F.S.
Sec. 14.06. - Budget estimate to show expenditures contemplated; notice and hearing; adoption; certification; disposition of unexpended funds.	↩ RECOMMEND REMOVAL; TRANSFERRED TO CODE OF ORDINANCES
Sec. 14.07. - Transfer of funds.	↩ RECOMMEND REMOVAL; TRANSFERRED TO CODE OF ORDINANCES
Sec. 14.08. - Commission may levy taxes to promote general welfare, etc.	↩ RECOMMEND REMOVAL; REPEALED BY CH. 166 F.S.
Sec. 14.09. - Money drawn from treasury; issuance of warrants.	↩ RECOMMEND REMOVAL; TRANSFERRED TO CODE OF ORDINANCES
Sec. 14.10. - When competition required for expenditure over one thousand dollars.	↩ RECOMMEND REMOVAL; REPEALED BY CH. 166 F.S.
Sec. 14.11. - Commission may borrow money; current revenue notes.	↩ RECOMMEND REMOVAL; REPEALED BY CH. 166 F.S.
Sec. 14.12. - Determination of anticipated revenue, rate of interest, etc., prior to sale; deposit of proceeds.	↩ RECOMMEND REMOVAL; REPEALED BY CH. 166 F.S.
Sec. 14.13. - St. Augustine Restoration and Historical Commission; annual appropriation.	↩ THIS COMMISSION IS NO LONGER IN EXISTENCE; RECOMMEND REMOVAL
Secs. 14.14–14.18. - Reserved.	----
<u>DIVISION 2. - ACQUIRING PROPERTY FOR PUBLIC PURPOSES</u>	
Sec. 14.19. - Short term contracts for purchase of buildings—Authorized by resolution; budget. The city commission of the city of St. Augustine, Florida, shall have authority and is hereby empowered to enter into contracts and agreements for the purchase, acquisition and construction of municipal and other public buildings or structures necessary or appropriate for the use of the city, to be paid for in annual or semi-annual installments within five (5) years from the date of the making of a contract to purchase, acquire or construct the same, provided, that such contracts, and agreements, or budgetary appropriations to purchase, acquire or construct, shall be specifically authorized by the city commission by a resolution duly adopted, determining the need therefor and setting forth the terms, conditions and provisions to be embraced in the contract, and the further source or sources from which it is anticipated the money shall become available to meet the installment payments to be made which shall thereafter be provided for in the making up of the future budgets of the city.	↩ UPDATE LANGUAGE
Sec. 14.20. - Same—Limitation of millage levied and size of expenditure.	↩ RECOMMEND REMOVAL
Sec. 14.21. - Same—Limited to one outstanding contract.	↩ RECOMMEND REMOVAL
Sec. 14.22. - Appropriation authorized; title acquired thereby; state law to apply to appropriation outside of city limits.	NC

Sec. 14.23. - Resolution declaring purpose, etc., of appropriation.	↩ RECOMMEND REMOVAL; REPEALED BY CH. 166 F.S.
Sec. 14.24. - Notice to be given owner; procedure when owner cannot be found.	↩ RECOMMEND REMOVAL; REPEALED BY CH. 166 F.S.
Sec. 14.25. - Purchase of property by city.	↩ RECOMMEND REMOVAL; REPEALED BY CH. 166 F.S.
Sec. 14.26. - Procedure on failure to agree on purchase price.	↩ RECOMMEND REMOVAL; REPEALED BY CH. 166 F.S.
<u>ARTICLE XV. - CITY PLANNING AND ZONING BOARD</u>	<u>SUGGESTED CHANGES</u>
Sec. 15.01. - Created; composition; appointments; qualifications of members; terms of office; vacancies; compensation.	↩ RECOMMEND REMOVAL; DELETED AS OBSOLETE
Sec. 15.02. - Meetings; chairman, etc.; quorum; records.	↩ RECOMMEND REMOVAL; DELETED AS OBSOLETE
Sec. 15.03. - Duties.	↩ RECOMMEND REMOVAL; DELETED AS OBSOLETE
Sec. 15.04. - Rules and bylaws.	↩ RECOMMEND REMOVAL; DELETED AS OBSOLETE
Sec. 15.05. - Provision for funds, etc., for commission.	↩ RECOMMEND REMOVAL; DELETED AS OBSOLETE
Sec. 15.06. - Form of and procedure as to commission's recommendations.	↩ RECOMMEND REMOVAL; DELETED AS OBSOLETE
Sec. 15.07. - Ex officio members.	↩ RECOMMEND REMOVAL; DELETED AS OBSOLETE
Sec. 15.08. - Acquisition of real property by city's street changes.	↩ RECOMMEND REMOVAL; DELETED AS OBSOLETE
Sec. 15.09. - Removal of members from office.	↩ RECOMMEND REMOVAL; DELETED AS OBSOLETE
Sec. 15.10. - Cooperation with county zoning and planning commission.	↩ RECOMMEND REMOVAL; DELETED AS OBSOLETE
<u>ARTICLE XVI. - SLUM CLEARANCE AND URBAN RENEWAL</u>	<u>SUGGESTED CHANGES</u>
Sec. 16.01. - Findings and declarations of necessity.	↩ SUGGEST REMOVAL; NOW IN CRA STATUTES §163.330-163.526
Sec. 16.02. - Encouragement of private enterprises.	↩ SUGGEST REMOVAL; NOW IN CRA STATUTES §163.330-163.526
Sec. 16.03. - Workable program.	↩ SUGGEST REMOVAL; NOW IN CRA STATUTES §163.330-163.526

Sec. 16.04. - Finding of necessity by the city commission.	↩ SUGGEST REMOVAL; NOW IN CRA STATUTES §163.330-163.526
Sec. 16.05. - Preparation and approval of urban renewal projects and urban renewal plan.	↩ SUGGEST REMOVAL; NOW IN CRA STATUTES §163.330-163.526
Sec. 16.06. - Powers.	↩ SUGGEST REMOVAL; NOW IN CRA STATUTES §163.330-163.526
Sec. 16.07. - Eminent domain.	↩ SUGGEST REMOVAL; NOW IN CRA STATUTES §163.330-163.526
Sec. 16.08. - Disposal of property in urban renewal area.	↩ SUGGEST REMOVAL; NOW IN CRA STATUTES §163.330-163.526
Sec. 16.09. - Issuance of bonds.	↩ SUGGEST REMOVAL; NOW IN CRA STATUTES §163.330-163.526
Sec. 16.10. - Bonds as legal investments.	↩ SUGGEST REMOVAL; NOW IN CRA STATUTES §163.330-163.526
Sec. 16.11. - Property exempt from taxes and from levy and sale by virtue of an execution.	↩ SUGGEST REMOVAL; NOW IN CRA STATUTES §163.330-163.526
Sec. 16.12. - Cooperation by public bodies.	↩ SUGGEST REMOVAL; NOW IN CRA STATUTES §163.330-163.526
Sec. 16.13. - Title of purchaser.	↩ SUGGEST REMOVAL; NOW IN CRA STATUTES §163.330-163.526
Sec. 16.14. - Exercise of powers in carrying out urban renewal project.	↩ SUGGEST REMOVAL; NOW IN CRA STATUTES §163.330-163.526
Sec. 16.15. - Urban renewal agency.	↩ SUGGEST REMOVAL; NOW IN CRA STATUTES §163.330-163.526
Sec. 16.16. - Interested public officials, commissioners or employees.	↩ SUGGEST REMOVAL; NOW IN CRA STATUTES §163.330-163.526

Sec. 16.17. - Definitions.	↩ SUGGEST REMOVAL; NOW IN CRA STATUTES §163.330-163.526
Sec. 16.18. - Separability; act controlling.	↩ SUGGEST REMOVAL; NOW IN CRA STATUTES §163.330-163.526
ARTICLE XVII. - PUBLIC UTILITIES	<u>SUGGESTED CHANGES</u>
<u>DIVISION 1. - IN GENERAL</u>	
Sec. 17.01. - Commission may grant franchises. Editor's note— Section 17.01 was derived from Laws of Fla. (1925) ch. 11148, § 173; Laws of Fla. (1929) ch. 14375, § 68; Ord. No. 77-14, § 1, 4-25-77. It has been deleted as a limitation on power repealed by F.S. ch. 166. <u>The city commission shall be authorized to operate public utilities consistent with Florida law.</u>	↩ AMEND TO GENERALLY STATE AUTHORITY
Sec. 17.02. - Reserved.	↩ RECOMMEND REMOVAL; REPEALED BY ORD 77-14
Sec. 17.03. - Commission to prescribe service, etc., to be rendered; improvements to be rendered.	↩ RECOMMEND REMOVAL; REPEALED BY CH. 166 F.S.
Sec. 17.04. - Commission may require utility to extend service.	↩ RECOMMEND REMOVAL; REPEALED BY CH. 166 F.S.
Sec. 17.05. - Annexed property to be subject to grant.	↩ RECOMMEND REMOVAL; REPEALED BY CH. 166 F.S.
Sec. 17.06. - Grants subject to control of city.	↩ RECOMMEND REMOVAL; REPEALED BY CH. 166 F.S.
Sec. 17.07. - Reserved.	↩ RECOMMEND REMOVAL; REPEALED BY ORD 77-14
Sec. 17.08. - Utility to keep books of account.	↩ RECOMMEND REMOVAL; DELETED AS OBSOLETE
Sec. 17.09. - Utility to file report for preceding fiscal year; information required.	↩ RECOMMEND REMOVAL; DELETED AS OBSOLETE
Sec. 17.10. - Commission to have access to utility's records.	↩ RECOMMEND REMOVAL; DELETED AS OBSOLETE
Sec. 17.11. - Reserved.	↩ RECOMMEND REMOVAL; REPEALED BY ORD 77-14
Sec. 17.12. - Same—Exception.	↩ RECOMMEND REMOVAL; DELETED AS OBSOLETE
Sec. 17.13. - Permits for laying railroad spur tracks not regarded as grant.	NC
Sec. 17.14. - Electrical contracts with private firms.	↩ RECOMMEND REMOVAL; REPEALED BY CH. 166 F.S.

Sec. 17.15. - Regulations of gas and electrical rates.	↩ RECOMMEND REMOVAL; REPEALED BY CH. 166 F.S.
Secs. 17.16–17.19. - Reserved.	----
<u>DIVISION 2. - UTILITY LOANS</u>	
Sec. 17.20. - Revenue certificate of indebtedness.	↩ RECOMMEND REMOVAL; REPEALED BY CH. 166 F.S.
Secs. 17.21–17.31. - Reserved.	----
<u>DIVISION 3. - GAS</u>	
Sec. 17.32. - Purchase, sale and distribution.	↩ POLICY DECISION
Sec. 17.33. - Powers of city.	↩ POLICY DECISION
Sec. 17.34. - Sale inside and outside city; rates.	↩ POLICY DECISION
Sec. 17.35. - Rents, fees and charges; public hearings.	↩ POLICY DECISION
Sec. 17.36. - Use by other municipalities.	↩ POLICY DECISION
Sec. 17.37. - Issuance of revenue bonds.	↩ POLICY DECISION
Sec. 17.38. - Supplemental powers.	↩ POLICY DECISION
Sec. 17.39. - Employment of personnel; creation of office.	↩ POLICY DECISION
Sec. 17.40. - Tax exemption.	↩ POLICY DECISION
<u>ARTICLE XVIII. - CITY PARKING COMMISSION</u>	<u>SUGGESTED CHANGES</u>
Sec. 18.01. - Creation by ordinance.	↩ RECOMMEND REMOVAL; DELETED AS OBSOLETE
Sec. 18.02. - Purposes of ordinance; duties of commission.	↩ RECOMMEND REMOVAL; DELETED AS OBSOLETE
Sec. 18.03. - Powers of commission.	↩ RECOMMEND REMOVAL; DELETED AS OBSOLETE
Sec. 18.04. - Issuance of certificates of indebtedness.	↩ RECOMMEND REMOVAL; DELETED AS OBSOLETE
Sec. 18.05. - Eminent domain.	↩ RECOMMEND REMOVAL; DELETED AS OBSOLETE
<u>ARTICLE XIX. - CITIZENS' ADVISORY COUNCIL</u>	<u>SUGGESTED CHANGES</u>
Sec. 19.01. - Established; composition; appointments, removals and vacancies; terms of office.	↩ RECOMMEND REMOVAL; DELETED AS OBSOLETE

Sec. 19.02. - Rules, etc.; chairman; meetings; quorum; compensation; members not to hold other city office.	↩ RECOMMEND REMOVAL; DELETED AS OBSOLETE
Sec. 19.03. - Capacity and duties.	↩ RECOMMEND REMOVAL; DELETED AS OBSOLETE
<u>ARTICLE XX. - PENSIONS</u>	<u>SUGGESTED CHANGES</u>
Sec. 20.01. - Ratification required. The powers and authority herein granted shall become effective only upon ratification and approval of an ordinance or ordinances adopted pursuant to the provisions of this Act [Article] by a majority of the electors voting thereon at any general or special election in the City of St. Augustine, Florida.	↩ REMOVE AS REDUNDANT; CODIFIED IN MUNICIPAL CODE
Sec. 20.02. - Fund for permanent city employees authorized; commission may receive gifts, etc., make rules, etc.	NC
Sec. 20.03. - Commission may contract with insurance, pension, etc., companies; appropriations from treasury.	NC
Sec. 20.04. - Employees' pension fund created; activated by ordinance.	NC
ARTICLE XXI.-ST. AUGUSTINE-ST. JOHNS COUNTY AIRPORT AUTHORITY	↩ DELETED; NOT PART OF CHARTER
ARTICLE XXII. - MISCELLANEOUS	↩ DELETED AS OBSOLETE

CHARTER LAWS

ARTICLE I. - TRANSITION; CORPORATE LIMITS

Sec. 1.01. - Short title.

This Act shall be known as the "Charter of the City of St. Augustine, Florida," and in all subsequent amendments thereto, it will be sufficient to refer to this Act as the "Charter of the City of St. Augustine, Florida."

(Laws of Fla. (1925) ch. 11148, § 221)

Sec. 1.02. - Existing municipality abolished.

Editor's note— Section 1.02 was derived from Laws of Fla. (1925) ch. 11148, § 1. It has been deleted as obsolete.

Sec. 1.03. - New municipality created.

The inhabitants of the City of St. Augustine, Florida as its limits are hereinafter established shall continue to be a body politic and corporate to be known and designated as the "City of St. Augustine, Florida," and as such shall have perpetual succession.

(Laws of Fla. (1925) ch. 11148, § 5)

Sec. 1.04. - Rights and liabilities of old municipality vested in new.

The title, rights and ownership of property, uncollected taxes, dues, claims, judgments, decrees and choses in action, held or owned by the municipality of St. Augustine shall pass to and be vested in the municipal corporation organized under this Act to succeed the municipality abolished.

(Laws of Fla. (1925) ch. 11148, § 2)

Sec. 1.05. - Obligations not to be impaired.

Editor's note— Section 1.05 was derived from Laws of Fla. (1925) ch. 11148, § 1. It has been deleted as obsolete.

Sec. 1.06. - Officers to continue in office; ordinances unimpaired.

Editor's note— Section 1.06 was derived from Laws of Fla. (1925) ch. 11148, § 4. It has been deleted as obsolete.

Sec. 1.07. - Liens not impaired by act.

Editor's note— Section 1.07 was derived from Laws of Fla. (1925) ch. 11148, § 4. It has been deleted as obsolete.

Sec. 1.08. - Boundaries.

The boundaries within which shall be comprehended and included the territory of the City of St. Augustine, Florida shall be as follows:

[Omitted Due To Length]

Sec. 1.09. - Property excluded to pay pro rata share of debts.

Editor's note— Section 1.09 was derived from Laws of Fla. (1933) ch. 16659, § 3. It has been deleted as preempted by F.S. § 171.022. *See also* F.S. §§ 171.052, 171.061.

Sec. 1.10. - City may furnish water to excluded property.

The City of St. Augustine, Florida is hereby vested with authority to furnish water to any of the excluded lands, real property and territory, and to make rules and regulations for its use and the price to be paid for said water. Nothing in this Act shall be construed to divest the said city of its title or ownership of any property of said city in said excluded land, real property or territory.

(Laws of Fla. (1933) ch. 16659, § 4)

Sec. 1.11. - Property of certain subdivisions subject to liens.

Editor's note— Section 1.11 was derived from Laws of Fla. (1933) ch. 16659, § 5. It has been deleted as obsolete.

Sec. 1.12. - City not to exercise jurisdiction over excluded territory.

Editor's note— Section 1.12 was derived from Laws of Fla. (1933) ch. 16659, § 6. It has been deleted as obsolete.

Sec. 1.13. - Liability of property excluded from city limits.

Editor's note— Section 1.13 was derived from Laws of Fla. (1931) ch. 15500, § 10. It has been deleted as preempted by F.S. § 171.022. See also F.S. §§ 171.052, 171.061.

Sec. 1.14. - Excluded property to pay pro rata share of assessments.

Editor's note— Section 1.14 was derived from Laws of Fla. (1931) ch. 15500, § 10. It has been deleted as preempted by F.S. § 171.022. See also F.S. §§ 171.052, 171.061.

Sec. 1.15. - State land granted to city.

The State of Florida hereby grants to the City of St. Augustine, in fee simple absolute, all lands and river bottoms owned or held by the State of Florida, in trust or otherwise and lying and being within the corporate limits of said City of St. Augustine.

(Laws of Fla. (1925) ch. 11148, § 9)

Sec. 1.16. - Annexation of lands by city—Lands subject to annexation.

Editor's note— Section 1.16 was derived from Laws of Fla. ch. 59-1785, § 1. It has been deleted as preempted by F.S. § 171.022.

Sec. 1.17. - Same—Procedure.

Editor's note— Section 1.17 was derived from Laws of Fla. ch. 59-1785, § 2. It has been deleted as preempted by F.S. § 171.022.

Sec. 1.18. - Same—Liability of annexed lands for city debt.

Editor's note— Section 1.18 was derived from Laws of Fla. ch. 59-1785, § 3. It has been deleted as preempted by F.S. § 171.022.

Sec. 1.19. - Same—Rights of residents to vote in city elections and to hold office.

Editor's note— Section 1.19 was derived from Laws of Fla. ch. 59-1785, § 4. It has been deleted as preempted by F.S. § 171.022.

Sec. 1.20. - Same—Right of licensees, permittees and certificate holders.

Editor's note— Section 1.20 was derived from Laws of Fla. ch. 59-1785, § 5. It has been deleted as preempted by F.S. § 171.022.

Sec. 1.21. - Validation of Code and ordinances.

Editor's note— Section 1.21 was derived from Laws of Fla. (1955) ch. 31219, § 1. It has been deleted as obsolete.

Secs. 1.22–1.27. - Reserved.

ARTICLE II. - CITY COMMISSION AND CITY EMPLOYEES

Sec. 2.01. - Composition; qualifications of members; terms of office; manner of election.

The city commission of the City of St. Augustine, Florida shall consist of five (5) members and who shall be qualified electors of said city, with one of the commissioners to be designated as mayor in accordance with this charter. Each commissioner shall be elected at large in the manner hereinafter provided. Commencing with the general election to be held in November, 1992, three (3) commissioners shall be elected, the candidate receiving the highest number of votes cast for Seat One to serve for a term of four (4) years; the candidate receiving the highest number of votes cast for Seat Two to serve for a term of four (4) years; and the candidate receiving the highest number of votes cast for Seat Three to serve for a term of two (2) years, and thereafter, commencing with the general election to be held in November, 1994, three (3) commissioners shall be elected. The candidate receiving the highest number of votes cast for Seat Four to serve for a term of four (4) years, the candidate receiving the highest number of votes for Seat Five to serve for a term of four (4) years, the candidate receiving the highest number of votes cast for Seat Three, designated as the mayor/commissioner seat, to serve for a term of two (2) years. Thereafter in general elections to be held in November of each even numbered year, successful candidates for Seats One, Two, Four and Five shall be elected for a term of four (4) years and the successful candidate for Seat Three receiving the highest number of votes shall be elected for a term of two (2) years."

(Laws of Fla. (1925) ch. 11148, § 8; Laws of Fla. (1929) ch. 14375, § 2; Laws of Fla. (1955) ch. 31217, §§ 1, 2; Laws of Fla. ch. 67-1975, § 8; Ord. No. 87-17, § 1, 4-13-87; Ord. No. 90-05, § 1, 3-12-90; Ord. No. 06-17, § 1, 8-14-06)

Cross reference— Election of member of city commission as mayor, § 5.03.

Sec. 2.02. - Powers generally; members to judge own elections, etc.; forfeiture of office on conviction of crime.

The city commission shall constitute the governing body of the city, with powers as hereafter provided, to pass ordinances, adopt resolutions and appoint an administrative officer to be known as the city manager and to exercise all other powers hereinbefore or hereafter provided. A quorum of the city commission shall consist of three commissioners, but a less number may adjourn from day to day to compel the attendance of absent members in such manner and under such penalties as may be prescribed by ordinance and no legislative action on the part of the city commission shall be valid unless concurred in by a three-fifths vote of all the members of the city commission. The city commission shall be the judge of the election and the qualifications of its own members subject to review by the courts. Any member of the commission who shall be convicted of a felony or a crime involving moral turpitude while in office shall forfeit his office.

(Laws of Fla. (1925) ch. 11148, § 8; Laws of Fla. (1929) ch. 14375, § 2)

Editor's note— The last sentence has been altered to read as shown. It appears to be amendable by ordinance. See AGO 073- 25.

Sec. 2.03. - Members of the city commission to be residents and electors; dual office-holding prohibition and ethics laws.

Members of the commission of the City of St. Augustine, shall be residents of the city, and the members of the commission shall have the qualifications of electors therein. The prohibition against dual office-holding and the regulation of public ethics shall be as required pursuant to Florida law.

(Laws of Fla. (1925) ch. 11148, § 12; Laws of Fla. (1929) ch. 14375, § 3; Laws of Fla. (1955) ch. 31220, § 1; Ord. No. 18-05, § 1, 2-22-18)

Sec. 2.04. - Public officers and employees to comply with State of Florida Code of Ethics.

Reporting individuals, as defined and interpreted consistent with Florida law, shall comply with the State of Florida's financial and gift disclosure regulations. All public officers and employees shall comply with the State of Florida's code of ethics, including, but not limited to, prohibitions on gifts intended to influence official decision-making.

(Laws of Fla. (1925) ch. 11148, § 15; Ord. No. 18-13, § 1, 11-13-18)

Sec. 2.05. - Forfeiture of office by commissioner losing qualifications.

Any commissioner who shall cease to possess any of the qualifications required under the six [four] preceding sections [§§ 2.01–2.04] shall forthwith forfeit his office.

(Laws of Fla. (1925) ch. 11148, § 16)

Editor's note— As to the term "six preceding sections," two of the original six (6) sections have since been repealed.

Sec. 2.06. - Vacancies.

Any vacancy in the city commission shall be filled until the next municipal election by vote of the remaining members of the commission; provided, that if such vacancy is not filled within ten days after it shall have occurred, appointment to fill the existing vacancy shall be made by the Governor.

(Laws of Fla. (1925) ch. 11148, § 17)

Editor's note— The last clause of the above section has been deleted as superseded by F.S. § 100.361(8). See also F.S. § 100.361(4), (9).

Cross reference— General provisions relating to elections, Art. VI.

Sec. 2.07. - Group insurance of city employees—Authorized.

The City of St. Augustine, Florida is hereby authorized and empowered to provide for life, health, accident, hospitalization, surgical, and annuity insurance, or all or any such insurance for its employees and officers, excluding members of the city commission, upon a group insurance plan and to that end to enter into agreements with insurance companies to provide such insurance.

(Laws of Fla. ch. 61-2737, § 1)

Sec. 2.08. - Same—Payment of premiums by city.

The City of St. Augustine, Florida is hereby authorized and empowered to pay all or any portion of the premiums for such group insurance from the general fund of the City of St. Augustine, Florida.

(Laws of Fla. ch. 61-2737, § 2)

Sec. 2.09. - Same—Deductions from salaries.

Upon the request in writing of any employee or officer, the director of financial services, is hereby authorized and empowered to deduct from the wages of such employee or officer, periodically, any premium or any portion of premium for such insurance which such employee or officer has agreed to pay, and to pay or remit the same to the Insurance Company issuing such group insurance.

(Laws of Fla. ch. 61-2737, § 3)

Sec. 2.10. - Annual Christmas bonus

The City of St. Augustine, Florida, is hereby authorized and empowered to pay, by resolution, to each of its officers and employees a Christmas bonus less all necessary deductions. That such bonus shall be in addition to and in no manner in lieu of any other regular compensation paid to such officer and employee.

(Laws of Fla. ch. 59-1787, § 1; Ord. No. 379-A, § 1, 12-17-73)

Sec. 2.11. - Removal of city official; hearing.

That in the event of the removal of any paid official of the City of St. Augustine, Florida, appointed by the city commission of said city, after having served for a period of thirty days such official, upon request within three days thereafter, shall be entitled to a public hearing within fifteen days after said removal, and the final removal thereof shall not be effective until after such public hearing.

(Laws of Fla. (1955) ch. 31223, § 1)

Secs. 2.12–2.17. - Reserved.

ARTICLE III. - POWERS AND DUTIES

Sec. 3.01. - General state laws.

All general laws of the state applicable to municipal corporations, now or which may hereafter be enacted, and which are not in conflict with the provisions of this charter or with the ordinances and resolutions hereafter enacted by the city commission, shall be applicable to this city; provided, however, that nothing contained in this charter shall be construed as limiting the power of the city commission to enact any ordinance or resolution not in conflict with the constitution of the state or with the express provisions of this charter.

(Laws of Fla. (1925) ch. 11148, § 219)

Sec. 3.02. - General powers.

The City of St. Augustine, Florida, by and through its city commission, shall have and is hereby granted the right, power and privilege:

- (a) *Taxes.* To levy taxes and assessments.
- (b) *Public works.* To control, perform and furnish all public services including the services of a civil or other engineer for the purpose of obtaining data, estimates, plans and specifications for proposed or contemplated public works or improvements except as otherwise herein provided.
- (c) *Acquisition of lands.* To acquire by purchase, gift, devise, bequest, donation, lease or condemnation any real or personal property or any estate, right, easement or interest therein, situate within or without the corporate limits of the City of St. Augustine for any of the uses, purposes and needs of the City of St. Augustine, Florida, and upon the acquisition of same to hold, use, manage, maintain, control, sell, lease, donate, exchange, mortgage, pledge or otherwise dispose of and encumber the same.
- (d) *Lands, buildings, water, eminent domain.* To maintain and further public improvements and works of all kinds, including municipal and other public buildings, armories, markets, toll bridges, airports and all buildings and other structures necessary or appropriate for the use of the city, and to acquire by condemnation proceedings or otherwise any and all lands, riparian or otherwise, and other rights and easements necessary for such public works and improvements; to purchase, hire, construct, own, maintain, operate or lease works for supplying the city and its inhabitants with water; to acquire in any lawful manner in any county of the State of Florida, or without said state, such water, lands and land under water as may be deemed necessary for the purpose of providing an adequate

water supply for said city and for the piping of said water from such land or lands under water herein authorized to be acquired, wheresoever situate, to the said City of St. Augustine for constructing and erecting necessary dams, pumping stations and any and all other works in connection therewith; to make all reasonable rules and regulations for promoting the purity of its water supply wheresoever situate, and for protecting the same from pollution; and for this purpose to exercise full police powers over all lands comprised within the limits of the watershed territory tributary to such water supply wherever such land may be located in the State of Florida; to impose and enforce adequate penalties for the violation of any such rules and regulations; and to prevent by injunction any pollution or threatened pollution of such water supply, and any and all acts likely or considered likely, to impair the purity thereof; and for the purpose of acquiring lands or materials for any such use, to exercise within the State of Florida, all powers of eminent domain. For any of the purposes aforesaid, the said City of St. Augustine, by and through its city commission, shall have the right, power and authority to acquire by condemnation, purchase or otherwise, any estate or interest in such lands, or any of them, or any right of easement therein, reserving to the owner or owners thereof such rights or easements as may be prescribed in the ordinance providing for such condemnation or purchase of any lands or interest therein. The city may sell or supply to persons, firms or industries residing or located without the city limits any surplus of water it may have over and above the amount required to adequately supply its own inhabitants.

- (e) *Wharves, bridges.* To establish, build, construct, maintain and operate public lands, public wharves, docks and toll bridges within the city; and to acquire by condemnation or other lawful manner all lands, riparian and other rights, approaches and easements necessary for the purposes aforesaid; to lay and collect reasonable duties or wharfage fees on vessels or boats using any such landings, wharves or docks; to assess and collect tolls from and upon any municipally owned toll bridge or bridges of the city and to fix the rate of such tolls and to provide for the application of the revenues derived from such tolls to any municipal purpose or purposes; to dredge or to deepen the harbor or rivers, or any branch or portion thereof, within the limits of said city; to prescribe and enforce reasonable rates and regulations for the protection and use of its said properties.
- (f) *Aircraft regulations.* To license and regulate all and every manner and kind of air vessels operated over the city; and to stipulate the height at, and the manner in which said air vessels may be operated above the area included in the city limits, and to license and register the pilots thereof; to establish and maintain and equip municipal airports, and to regulate the use thereof and to prescribe and collect fees or tolls for the use thereof.
- (g) *Plats, fills, conveyances.* To develop by filling, platting, bulkheading, reclaiming, dredging, subdividing or otherwise improving as may be prescribed by the city commission for the health, comfort, convenience and amusement of the inhabitants of said city, all lands acquired by the said city, by purchase or otherwise, and lying and being within the corporate limits of said city as hereinbefore set forth; such development may be carried on under contract with persons, firms or corporations or otherwise as the city commission may deem wise; and in the furtherance of such development of all land acquired by said city, by purchase or otherwise, the said city commission shall have the right and power to make, execute and deliver good and sufficient deeds of conveyance under such restrictions as may be prescribed by the city commission to persons, firms or corporations for private purposes, and to receive and accept money or other valuable considerations, the kind and amount to be fixed by said city commission, in payment for the conveyance of such lands; provided, however, that all moneys derived from the sale of such lands, after the costs of such development have been paid, shall be used in the building of municipal wharves, docks and terminals, yacht basins, piers, parkways, golf links and suitable buildings to be operated in connection therewith, sanitation and for the furtherance of commerce and navigation.
- (h) *Historical sites.* It is hereby declared and enacted that the preservation, restoration and maintenance of the City of St. Augustine's ancient landmarks, sites, buildings, remains and other property of historical or antiquarian interest, of scenic beauty, recreational or scientific utility, remarkable phenomena or other unusual features is a public use for the observation, education, health, pleasure, benefit and general welfare of its citizens.

- (i) *Underground wiring—Buildings; zoning.* The City of St. Augustine, by and through its city commission, be and it is hereby authorized and empowered by its zoning ordinances to define the terms "residence," "place of residence," "business," "place of business," "business, residential," "historical park," "parking," "scenic and boulevard areas and districts"; to limit, regulate, control or prohibit the erection or construction of any pole, object or thing for carrying, holding or maintaining any overhead wires; to limit and regulate the location, or require the placing underground, of all overhead wires within the boundaries of the City of St. Augustine, Florida; to prohibit, regulate and control the construction, erection, maintenance and use of any and all signs, billboards or displays of any nature over and upon the streets of the City of St. Augustine, Florida, and over and upon the property of any individual, person, firm, corporation or association situated within the corporate limits of the City of St. Augustine, Florida; to regulate, control and limit the architectural design, kind of material, height, size and location of buildings and structures hereafter erected; and to regulate and control the use and alteration of present buildings and structures and those to be hereafter erected and constructed; to require the alteration and razing of present buildings or structures or portions thereof which are in conflict with the zoning ordinance or ordinances of the City of St. Augustine, Florida; to regulate, control and determine the area of yards, courts and other open spaces, and to create and establish, regulate and control business, residential, historical, park, parking, scenic, boulevard and other similar areas and districts and combinations thereof, and to prescribe for each such area and district the business, trades and industries that shall be excluded or allowed and regulated therein. Such regulations shall be designed to promote the public health, safety from fire and other damages, preserve and maintain ancient landmarks, buildings, remains, sites and other property of historical or antiquarian interest, of scenic beauty, recreational and scientific utility for the education, pleasure, benefit and general welfare of the inhabitants of the City of St. Augustine, and their property, and shall be made with reasonable consideration, among other things taking into consideration the location of the districts, its peculiar suitability for particular trade or industrial uses, historical, scenic, recreational, scientific and educational value and the conservation of property and enhancement of property values in such districts and the direction and general supervision of building development in accord with a well-considered and duly adopted plan; the grant of specific powers in relation to the regulation of buildings and the location of business, trades and industries shall not be dependent upon any state law.
- (j) *Traffic.* The City of St. Augustine, Florida, by and through its city commission, be and it is hereby granted full power and authority by ordinance or ordinances to regulate and control all traffic of any nature whatsoever, and prohibit where necessary the use of motor vehicles, over, upon and in its streets, roads, parks, parking areas and boulevards; and to regulate and control the width, height and weight of any kind of any and all motor or other vehicles; to establish terminals for passenger and freight motor lines and when so designated said passenger and freight lines shall take on and discharge their passengers and freight at only such designated terminals.
- (k) *Underground wiring.* The City of St. Augustine, Florida, by and through its city commission, be and it is hereby granted the power and authority to regulate, control or prohibit by ordinance the erection or construction of any pole, object or thing for carrying, holding or maintaining any overhead wires, and of the stringing of any wires on any pole, object or thing within the incorporated limits of the City of St. Augustine, Florida, and to compel by legal action all individuals, firms, associations or corporations owning or maintaining overhead wires on poles or other objects or things within the limits of the City of St. Augustine, Florida, to place said wires underground and to raze the poles, objects or things on which they are now strung.
- (l) *Signs and advertising—City streets.* The City of St. Augustine, Florida, by and through its city commission, be and it is hereby further granted full power and authority by ordinance or ordinances to prohibit, regulate and control the construction, erection, maintenance and use of any and all signs, billboards, or displays of any nature over and upon the streets of the City of St. Augustine.
- (m) *Same—Private property.* The City of St. Augustine, Florida, by and through its city commission, be and it is hereby further granted full power and authority by ordinance or ordinances to prohibit, regulate and control the construction, erection, maintenance and use of any and all signs, billboards

or displays of any nature over and upon the property of any individual, person, firm, corporation or association situated within the corporate limits of the City of St. Augustine, Florida.

- (n) *Eminent domain.* The City of St. Augustine, Florida, by and through its city commission, be and it is hereby granted the power of eminent domain, upon payment of just compensation, to take the fee title to property or any right, easement or interest therein less than the fee as may be necessary for the preservation, restoration and maintenance of its ancient landmarks, sites, buildings and other property of historical or antiquarian interest, of scenic beauty, recreational or scientific utility, remarkable phenomena or other unusual feature, for the elimination of signs, billboards or similar mediums of display, for the relocation, or the placement of overhead wires underground, and for the relocating of the razing of the poles, objects or things upon which said wires are strung, within the corporate limits of the City of St. Augustine, Florida.
- (o) *Acquisition of property.* The City of St. Augustine, Florida, by and through its city commission, be and it is hereby authorized and empowered to receive, accept and acquire by gift, devise, bequest, donation, purchase, lease, condemnation or otherwise historical landmarks, sites, remains, buildings, monuments, cemeteries or other antiquarian interest or value, scenic beauty, scientific interest, recreational utility, remarkable phenomena or other unusual features, books, manuscripts and other personal property of historical value, relics, as well as money for the purchase and maintenance of same, and to hold, control, own and use the same and provide for the restoration, care and preservation of the same; and in the same manner to receive, accept and acquire any property immediately contiguous to and adjoining any such real estate which is necessary for any such educational, scientific or historical purpose or for the accommodation of the public in visiting such historical site, object or place, or which is essential to the carrying out of the intent and purpose for which the park, preserve, site or memorial was created; the City of St. Augustine, by and through its city commission, be and it is hereby specifically authorized and empowered to hold, use, manage, control, sell, lease, donate, exchange, mortgage, pledge or otherwise dispose of any such property or any part thereof, upon such terms and conditions as may be prescribed by the city commission of the City of St. Augustine, Florida, whether the said property was acquired by gift, devise, bequest, donation, purchase, lease, condemnation or otherwise.
- (p) *City may act as trustee.* The City of St. Augustine, Florida, by and through its city commission or other governing head, be and it is hereby granted the power and authority to act as trustee for any money and property, real or personal, which may be placed by gift, devise, bequest, donation or otherwise in its hands for the use and benefit of said city, and/or for the use, observation, education, health, benefit, pleasure and general welfare of the citizens of the City of St. Augustine, Florida, and/or for the restoration, preservation and maintenance of ancient or historical landmarks, sites, cemeteries, graves, military works, monuments, locations, remains, buildings and other property or objects of historical or antiquarian interest or value, scenic beauty, scientific interest, recreational utility, remarkable phenomena or other unusual features of the City of St. Augustine, and to bind the said city, its commissioners or other governing head, in the acceptance thereof, and to any and all conditions attached to such gift, bequest, devise or donation; that such money and property shall not be subject to or held liable for any claim, indebtedness, judgment, mortgage or lien which has been or may be obtained by any person, firm, corporation or association against the City of St. Augustine, Florida; that the said property or money coming into the hands of said city in trust shall be held and used only for the purposes for which the said property or money is placed in its hands in trust, and that all such money and property shall be inviolate and not subject to any action at law or equity against the said City of St. Augustine, Florida, for any of its said obligations.
- (q) *General law.* The enumeration of the particular powers herein shall not be construed or held to be exclusive, but in addition to the powers enumerated herein, implied thereby or appropriate to the exercise thereof, the City of St. Augustine, Florida, shall have, and may exercise thereof all other powers which are conferred upon cities by the general laws of which, under the constitution and laws of Florida, it is and would be competent for this section expressly to enumerate.

- (r) *Codification of ordinances.* The City of St. Augustine, Florida, shall have the power, and is hereby authorized, by and through its city commission, at any time, to appoint some person or persons and authorize him or them to arrange and codify the ordinances of said city and to publish such codification in an appropriate volume which shall become the laws of said city upon the adoption by ordinance duly passed by the city commission; and provided further, that in the exercise of the power by said commission to adopt said codification, it shall not be necessary to publish said codification, but the publication of the ordinance adopting the same shall be sufficient to make the codification of such ordinances binding as the laws of said city.

(Laws of Fla. (1925) ch. 11148, § 7; Laws of Fla. (1929) ch. 14375, § 1; Laws of Fla. (1937) ch. 18873, § 1; Laws of Fla. (1947) ch. 24859, § 1)

Editor's note— Former subsection (i) (pertaining to zoning) has been deleted as preempted by F.S. § 163.3161 et seq.

Sec. 3.03. - Powers as to zoning.

Editor's note— Section 3.03 was derived from Laws of Fla. (1937) ch. 18873, § 2. It has been deleted as obsolete.

Sec. 3.04. - City may operate municipal bus line.

An additional power is hereby granted to the city commission and the City of St. Augustine, Florida, to wit: The City of St. Augustine, Florida shall have the power and authority to buy, purchase and sell, to lease and mortgage, and to maintain and operate a municipal bus, or bus line for the carrying of passengers and freight within the city limits of the City of St. Augustine, Florida.

(Laws of Fla. (1931) ch. 15500, § 6)

Sec. 3.05. - Commission to exercise all powers not delegated; administrative service to be dealt with through city manager.

All powers of the city except such as are vested in the jurisdiction of the municipal court and except as otherwise provided by this charter or by the constitution of the state, are hereby vested in the city commission; and, except as otherwise provided by this charter, or by the constitution of the state, the city commission may, by ordinance or resolution, prescribe the manner in which any power of the city shall be exercised. Neither the commission nor any of its members shall dictate the appointment of any person to office or employment by the city manager or in any manner prevent the city manager from exercising his own judgement in selecting the personnel of his administration. The commission and its members shall deal with the administrative service solely through the city manager and neither the commission nor any member thereof shall give orders to, nor make requests of any of the subordinates of the city manager, either publicly or privately. Provided, however, nothing herein shall be taken or construed as a criminal violation or to prohibit the commission or any member thereof from making requests for information only from any of the subordinates of the city manager or the city's administrative service.

(Laws of Fla. (1925) ch. 11148, § 11; Ord. No. 88-56, § 1, 9-26-88)

Editor's note— References in the above section to the municipal court are obsolete. See Fla. Const. art. V, § 20(d)(4).

Sec. 3.06. - Authority to provide fire protection and other services beyond limits.

The City of St. Augustine, Florida, is hereby authorized and empowered to provide fire protection and other governmental services beyond the corporate limits of said City and to enter into contracts for such purposes.

(Laws of Fla. ch. 61-2736, § 1)

Sec. 3.07. - Authority to promote and publicize city.

- (a) The city commission of the City of St. Augustine, Florida, is hereby authorized and empowered to use such means and media as said commission deems advisable to publicize and make known the advantages, facilities, resources, products, attractions and attributes of the City of St. Augustine, Florida; to promote the said city as a site for conventions and gatherings of all kinds; to create a favorable climate of opinion concerning the said city; and to cooperate with any and all other governmental agencies in accomplishing these purposes. These are hereby declared to be valid municipal and public purposes.
- (b) The city commission of the City of St. Augustine, Florida, is hereby authorized and empowered to pay the expenses of such activities and the cost of carrying out the purposes of this act out of general municipal funds. Said payment may be made without regard to whether the expense or cost is incurred within or without the limits of the City of St. Augustine, Florida.
- (c) It is the intention of the legislature that the authority granted in this act shall be cumulative and that funds expended hereunder shall be in addition to all other expenditures authorized by law.

(Laws of Fla. ch. 65-2158, §§ 1-3)

Secs. 3.08-3.12. - Reserved.

ARTICLE IV. - EXECUTIVE AND ADMINISTRATIVE OFFICERS

DIVISION 1. - IN GENERAL

Sec. 4.01. - In whom power vested.

The executive and administrative powers of the city, not herein otherwise provided for, shall be vested in and exercised by the following officers and departments:

A city attorney, a municipal judge, and three departments as follows: Department of public safety and welfare and public works, department of records and taxation and department of finance.

(Laws of Fla. (1925) ch. 11148, § 35)

Editor's note— References in the above section to a municipal judge are obsolete. *See* Fla. Const. art. V, § 20(d)(4).

Sec. 4.02. - Investigation of departments, officers; process; procedure.

The city commission, or any committee thereof, the city manager or any advisory board appointed by the city commission for such purposes, shall have power at any time to cause the affairs of any department or the conduct of any officer or employee to be investigated and for such purpose shall have power to compel the attendance of witnesses and the production of books, papers and other evidence, and for that purpose may issue subpoenas or attachments which shall be signed by the president or chairman of the body or by the officer making the investigation, and shall be served by any officer authorized by law to serve such process. The authority making such investigation shall have power to cause the testimony to be given under oath, such oath to be administered by some officer having authority under the law of the state to administer oaths; and shall also have power to punish as for contempt any person refusing to testify to any fact within his knowledge, or produce any book or papers under his control relating to the matter under investigation.

(Laws of Fla. (1925) ch. 11148, § 218)

Sec. 4.03. - Oath of officers.

Editor's note— Section 4.03 was derived from Laws of Fla. (1925) ch. 11148, § 184. It assumed ordinance status pursuant to F.S. ch. 166 and has been transferred into the Code of Ordinances.

Sec. 4.04. - Present officers to continue in office.

Editor's note— Section 4.04 was derived from Laws of Fla. (1925) ch. 11148, § 186. It has been deleted as obsolete.

Sec. 4.05. - Removal of city official; hearings.

In the event of the removal of any paid official of the City of St. Augustine, Florida, appointed by the city commission of said city, after having served for a period of thirty days, such official, upon request within three days thereafter, shall be entitled to a public hearing within fifteen days after said removal, and the final removal thereof shall not be effective until after such public hearing.

(Laws of Fla. (1955) ch. 31223, § 1)

Sec. 4.06. - Tort actions against city.

Editor's note— Section 4.06 was derived from Laws of Fla. (1955) ch. 31221, § 1. It has been deleted as superseded by F.S. § 768.28(5).

DIVISION 2. - COMPENSATION OF OFFICERS

Sec. 4.07. - Salaries fixed by commission; salaries fixed by city manager; to be uniform; where reported; disposition of fees and moneys.

The commission shall fix by ordinance the salary or compensation of the city attorney, municipal judge, the heads of the departments, members of the police and fire forces and members of boards. The city manager shall fix the number and compensation of all other officers and employees. All such salaries and rates of pay with dates of employment and discharge shall be immediately reported to the director of financial services. All fees and moneys received or collected by officers and employees shall be immediately paid over to the director of financial services on the date of their receipt.

(Laws of Fla. (1925) ch. 11148, § 183)

Editor's note— The third sentence of the above section has been deleted pursuant to city instructions. References to the municipal judge are obsolete. See Fla. Const. art. V, § 20(d)(4).

Sec. 4.07-1. - Salary of commissioners.

Editor's note— Section 4.07-1 was derived from Ord. No. 76-41, § 1, 11-8-76; Ord. No. 77-12, § 1, 5-9-77; Ord. No. 79-19, § 1, 5-14-79; Ord. No. 79-43, § 1, 10-8-79; Ord. No. 82-36, § 1, 12-27-82. The section has been transferred to the Code of Ordinances. See AGO 075-223.

Sec. 4.08. - Bond of officers, etc.

The city commission or city manager in fixing the salary of any officer, clerk, or employee shall determine whether or not such officer, clerk or employee shall give bond, and the amount thereof, which bond shall be procured from a regularly accredited surety company authorized to do business under the laws of Florida, the premiums on such bonds to be paid by the city. All such bonds shall be filed in the office of the city clerk.

(Laws of Fla. (1925) ch. 11148, § 185)

Editor's note— Pursuant to city instructions, "finance director" has been changed to "clerk" in the last sentence.

DIVISION 3. - MAYOR

Sec. 4.09. - Election; powers and duties.

The commissioner elected to Seat Three shall serve as mayor and shall preside at all meetings of the commission and perform such other duties consistent with his office as may be imposed by it, and he shall have a voice and vote in the proceedings of the commission but no veto power. He may use the title of mayor in any case in which the execution of legal instruments of writing or other necessity arising from the general laws of the state so requires, but this shall not be considered as conferring upon him the administrative or judicial functions of a mayor under the general laws of the state. He shall be recognized as the official head of the city by the courts for the purpose of serving civil processes by the government in the exercise of military law and for all ceremonial purposes. He may take command of the police and govern the city by proclamation during times of grave public danger or emergency. The powers and duties of the mayor shall be such as are conferred upon him by the city commission in pursuance of the provisions of this Charter and no others. In the absence of the mayor, the other members of the city commission shall select one of their number to perform his duties.

(Laws of Fla. (1925) ch. 11148, § 19; Ord. No. 82-40, § 1, 5-4-83; Ord. No. 06-17, § 2, 8-14-06)

Editor's note— Substitute for Ord. No. 82-40, adopted May 4, 1983, was approved at referendum held May 1983.

DIVISION 4. - CITY MANAGER

Sec. 4.10. - Appointment; qualifications; temporary manager during absence, etc.

The city commission shall appoint a city manager who shall be the administrative head of the municipal government under the direction and supervision of the city commission, and he shall hold office at the pleasure of the city commission. He shall be chosen solely on the basis of his executive and administrative qualifications, without regard to his political belief, and he need not be a resident of the city or state at the time of his appointment. During the absence or disability of the city manager, the city commission may designate some properly qualified person to temporarily execute the functions of the office.

(Laws of Fla. (1925) ch. 11148, § 31)

Cross reference— City manager to have exclusive authority in the employment of city employees, § 3.05.

Sec. 4.11. - Compensation.

Editor's note— Section 4.11 was derived from Laws of Fla. (1925) ch. 11148, § 32 and Laws of Fla. (1931) ch. 15500, § 1. It assumed ordinance statutes pursuant to F.S. ch. 166 and has been deleted as not needed.

Sec. 4.12. - Term of office.

The city manager of the City of St. Augustine, Florida shall serve at the pleasure of the city commission. (Laws of Fla. (1925) ch. 11148, § 33; Laws of Fla. (1931) ch. 15500, § 2)

Sec. 4.13. - Powers and duties generally.

The city manager shall be responsible to the city commission for the proper administration of all affairs of the city and to that end, his powers are and they shall be:

- (a) To see that the laws and ordinances are enforced;
- (b) Except as hereinafter specifically provided, to appoint and remove all subordinate officers and employees of the city; all appointments to be made upon merit and fitness alone;

- (c) To exercise control and direct supervision over all departments and divisions of the municipal government under this charter, or which may hereafter be created by the city commission;
- (d) To see that all terms and conditions imposed in favor of the city or its inhabitants in any public utility franchise are faithfully kept and performed; and upon knowledge of any violation thereof, to call the same to the attention of the city attorney whose duty it is hereby made to take such legal steps as may be necessary to enforce the same;
- (e) To attend all meetings of the city commission and of its committees, with right to take part in the discussion, but without having a vote;
- (f) To recommend to the commission for adoption such measures as he may deem necessary or expedient in the interest of the city;
- (g) To keep the city commission fully advised as to the financial conditions and needs of the city and to submit for its consideration an annual budget;
- (h) To perform such other duties as may be prescribed under this charter or as may be required of him by ordinance or resolution of the city commission; and
- (i) The city manager of the City of St. Augustine, Florida, or his designee, shall be the purchasing agent of said city by whom all purchases of supplies shall be made; and he shall approve all vouchers for the payment of same. In the capacity of purchasing agent he shall also conduct all sales of personal property which has become necessary or unfit for the city's use. Competitive formal bids should be solicited for any single item which exceeds the purchase cost of five thousand dollars (\$5,000.00); provided, however, that when such formal bids have been received on public works construction contracts to be let by the city and they are in excess of the estimated construction costs as prepared by independent engineers or architects on behalf of the city then, and in that event, the city manager may, subject to approval of the city commission, negotiate the terms and conditions of such construction contracts with any qualified contractor, whether low bidder or otherwise, so as to bring the cost of the proposed contract within the engineers' and/or architects' estimate or the amount of money available to the city for such contract.

(Laws of Fla. (1925) ch. 11148, § 34; Laws of Fla. (1955) ch. 31226, § 1; Ord. No. 82-38, § 1, 11-22-82; Ord. No. 90-34, § 1, 12-10-90)

Editor's note— The last sentence of the above section has been transferred to the Code of Ordinances.

Cross reference— Duty of the city manager in the preparation of the annual city budget, § 14.02; expenditures other than salaries in excess of \$1000 shall be made by competition, § 14.10.

Sec. 4.14. - To be head of various departments.

The city manager, as the administrative officer of the city shall be the head of each department provided for under this charter and shall be responsible for its successful and businesslike operation. He shall be the active head of the department of public safety and welfare, which department shall have cognizance of all matters making for the welfare of the community such as the control of its charitable and correctional institutions, and the management and supervision of all public improvements, works and undertakings of the city except as otherwise specifically provided for under this charter.

(Laws of Fla. (1925) ch. 11148, § 52)

Sec. 4.15. - Appointment of health officer; duties.

Editor's note— Section 4.15 was derived from Laws of Fla. (1925) ch. 11148, § 53. While it is a part of the charter, it has been deleted as obsolete.

Sec. 4.16. - Additional duties.

The city manager shall manage and control all city owned public utilities operated and managed by the municipality, and the office of the city manager shall be charged with the management and operation of all public works and the regulation by ordinances of the city commission of all charitable and correctional institutions and agencies of the city, enforce all laws, ordinances and regulations relative to the preservation and promotion of public health; shall manage or inspect water, lighting, heating, power and transportation enterprises of the city; shall manage and control the use, construction, improvement, repair and maintenance of all recreational facilities of the city, including parks, playgrounds and public gymnasiums, bathhouses and social centers; he shall manage and supervise all public improvements, works and undertakings of the city, except as otherwise provided in this charter; he shall have charge of the construction, improvement, repair and maintenance of streets, sidewalks, alleys, lanes, bridges, viaducts, aqueducts, public highways, sewers, drains, ditches, culverts, streams, watercourses, and all public buildings; he shall manage and control market houses, crematories, sewerage disposal plants and farms, and he shall enforce all the obligations of privately owned or operated public utilities which are enforceable by the city; he shall have charge of the making and preservation of all surveys, maps, plans, drawings and estimates for such public work; the cleaning, sprinkling and lighting of streets and public places; the collection and disposal of wastes; the preservation of tools and appliances belonging to the city and pertaining to the functions of its several departments.

(Laws of Fla. (1925) ch. 11148, § 58)

Sec. 4.17. - Assistant city manager.

- (a) There shall be an assistant city manager who shall be appointed by and serve during the pleasure of the city manager. The appointment shall be effective upon confirmation by the city commission.
- (b) The assistant city manager shall, in the absence of the city manager, perform the duties of the city manager as provided by the Charter and Ordinances of the City of St. Augustine, Florida.

(Laws of Fla. ch. 73-608, §§ 1, 2)

Editor's note— Ch. 73-608, §§ 1, 2, amended the Charter but did not specify the manner thereof, hence inclusion herein as § 4.17(a) and (b) was at the discretion of the editor.

DIVISION 5. - CITY ATTORNEY

Sec. 4.18. - Qualifications.

The city attorney shall be a lawyer of at least five years' experience admitted to and having authority to practice in all courts of the state.

(Laws of Fla. (1925) ch. 11148, § 38)

Cross reference— Ordinances to be voted on by the electors of the city to be first submitted to and approved by the city attorney, § 5.21.

Sec. 4.19. - Special duties.

The city commission shall appoint a city attorney who shall act as the legal adviser to, and attorney and counselor for, the municipality and all of its officers in matters relating to their official duties. He shall prepare all contracts, bonds and other instruments in writing in which the municipality is concerned and shall endorse on each his approval of the form and correctness thereof and no contract with the municipality shall take effect until his approval is so endorsed thereon. He shall prosecute and defend for and in behalf of the city all complaints, suits and controversies in which the city is a party. He shall furnish the city commission, the city manager, the head of any department or any officer or board not included in any department his opinion on any question of law relating to their respective powers and duties.

(Laws of Fla. (1925) ch. 11148, § 36)

Editor's note— The next to last sentence has been modified so as to delete a reference to the city attorney prosecuting in municipal court, as municipal courts have been abolished. See Fla. Const. art. V, § 20(d)(4).

Sec. 4.20. - Additional duties.

In addition to the duties specifically imposed under the preceding section he shall perform such other professional duties as may be required of him by ordinance or resolution of the city commission or as are prescribed for city attorneys under the general law of the state and which are not inconsistent with this charter and with any ordinance or resolution which may be passed by the city commission.

(Laws of Fla. (1925) ch. 11148, § 37)

DIVISION 6. - CITY CLERK

Sec. 4.21. - Appointment; duties generally.

There shall be a city clerk who shall be appointed by and serve during the pleasure of the city commissioners and who, under the supervision of the city manager, shall be director of the department of records. He shall attend all meetings of the city commission and shall keep a journal of its proceedings, the correctness of which proceedings as entered in such journal shall be certified to after each meeting by his signature and by the signature of the presiding officer of the city commission. He shall be the custodian of the seal of the city and of all records and papers of a general character pertaining to the affairs of a municipality. He shall attest to the signature of the mayor-commissioner on all contracts and other documents requiring such attestation.

(Laws of Fla. (1925) ch. 11148, § 59; Laws of Fla. (1929) ch. 14375, § 7; Ord. No. 75-17, § 1, 8-11-75; Ord. No. 84-12, § 1, 4-23-84)

Sec. 4.22. - Additional duties.

In addition to the duties specifically imposed under this Charter, the city clerk shall perform such other duties as may be required of him by ordinance or resolution of the city commission, as well as such as may be required by the city manager or of city clerks by the general laws of the state applicable to municipalities and not inconsistent with this Charter or with any ordinance or resolution passed by the city commission.

(Laws of Fla. (1925) ch. 11148, § 60; Laws of Fla. (1929) ch. 14375, § 8; Ord. No. 84-12, § 1, 4-23-84)

Secs. 4.23–4.31. - Reserved.

Editor's note— As previously constituted, div. 6 pertained to the director of financial services, and §§ 4.23–4.31 contained provisions relating to the director's duties regarding expenditures, audits, etc. These duties are now performed by the director of financial services, whose duties were provided for in div. 7. Sections 4.23–4.31 were formerly derived from Laws of Fla. (1925) ch. 11148, §§ 61–68, 70, and Laws of Fla. (1929) ch. 14375, § 9.

DIVISION 7. - DIRECTOR OF FINANCIAL SERVICES

Editor's note— Prior to its amendment by § 2 of Ord. No. 84-12, adopted Apr. 23, 1984, div. 7 was entitled "Treasurer and Collector" and was derived from Laws of Fla. (1925) ch. 11148, §§ 71–79, and Laws of Fla. (1929) ch. 14375, §§ 12, 13. Division 7, consisting of §§ 4.32–4.39 and derived from Ord. No. 84-12 has been transferred to the code of ordinances as the provision assumed ordinance status pursuant to F.S. ch. 166.

Secs. 4.32–4.41. - Reserved.

DIVISION 8. - RESERVED

Editor's note— Division 8, §§ 4.42, 4.43, relating to the tax assessor, was repealed by Ord. No. 84-12, § 3, 4-23-84. The division had been derived from Laws of Fla. (1925) ch. 11148, §§ 101, 102; Laws of Fla. (1929) ch. 14375, § 22; and Laws of Fla. (1937) ch. 18877, §§ 3, 5.

Secs. 4.42, 4.43. - Reserved.

DIVISION 9. - FIRE DEPARTMENT

Sec. 4.44. - Composition; powers and duties generally of fire chief.

The fire force of the City of St. Augustine shall consist of a chief, who shall be a fire warden, and as many subordinate professional officers, professional firemen and employees, employed on a full time basis, as the city commission shall by ordinance determine is reasonably required to afford fire protection to the city. In determining the level of fire protection to be afforded, the city commission shall consider the recommendations of the Insurance Service Organization, the National Fire Protection Association, the fire chief, the city manager and the level of service afforded cities of a comparable size. The fire chief shall have exclusive control of the stationing and transfer of all firemen and other officers and employees constituting the fire force, subject to such rules and regulations as may be prescribed by city manager or by ordinance of the city; he shall have exclusive management and control of such officers and employees as may be employed in the administration of the affairs of his force. In case of riot, conflagration or like emergency, the city manager may appoint additional firemen for temporary service. The fire chief shall have, subject to the remaining portions of this charter, the right to suspend any officer or employee of the fire force because of incompetency, neglect of duty, drunkenness, failure to obey orders given by proper authority or for any other just or reasonable cause and shall immediately report the fact of such suspension to the city manager for final action.

(Laws of Fla. (1925) ch. 11148, § 57; Ord. No. 88-43, § 1, 8-8-88)

Sec. 4.45. - Authorized working hours; exceptions.

No member of the fire department of the City of St. Augustine, Florida, shall regularly be required to remain on duty more than one hundred forty-four hours in any two consecutive calendar weeks; provided, however, that all members of the fire department of the City of St. Augustine, Florida, shall be subject to call in the event of a general fire alarm during the time when a fire emergency so requires; and provided, further, that nothing herein contained shall be construed to repeal any provision of any law or ordinance of the City of St. Augustine, Florida, allowing vacations to members of the fire department of the said city.

(Laws of Fla. (1949) ch. 26190, § 1)

Sec. 4.46. - Same—Inapplicability of certain state law.

Editor's note— Section 4.46 was derived from Laws of Fla. (1949) ch. 26190, § 2. It has been deleted as obsolete.

DIVISION 10. - ADVISORY BOARD

Sec. 4.47. - Appointment; powers and duties; compensation.

Editor's note— Section 4.47 was derived from Laws of Fla. (1925) ch. 11148, § 84. It has been deleted per instructions of the city.

DIVISION 11. - RESERVED

Editor's note— Division 11, §§ 4.48—4.50, relating to the board of adjustment, derived from Laws of Fla. (1925) ch. 11148, § 88, and Laws of Fla. (1937) ch. 16657, § 1, was repealed by Ord. No. 84-12, § 4, 4-23-84.

Secs. 4.48—4.50. - Reserved.

DIVISION 12. - BOARD OF TRUSTEES

Sec. 4.51. - Appointment; composition; terms; powers and duties.

The city commission may, by ordinance or resolution, appoint a board of trustees, to be composed of three members, who shall be citizens of said city, one trustee shall be appointed for one year, one for two years, and one for three years, and shall hold office until their successors are appointed and qualified. The said trustees shall take charge of, manage, conduct and exercise all the powers necessary for the reclamation and filling in of all marsh or submerged lands acquired by said city, by purchase or otherwise, to sell and convey such reclaimed lands upon such terms, conditions and restrictions as the said trustees deem best for the interest, benefit, welfare, comfort, pleasure and convenience of the citizens of said city, and to that end are hereby authorized to do and perform any and all acts necessary.

(Laws of Fla. (1925) ch. 11148, § 151)

Editor's note— A freeholder requirement in the first sentence has been deleted as unconstitutional. See *Harper v. Virginia Board of Elections*, 483 U.S. 663 (1963).

ARTICLE V. - MEETINGS, ORDINANCES, RESOLUTIONS

DIVISION 1. – MEETINGS

Sec. 5.01. - Meetings, records, etc., to be public; rules and order of business; journal.

All meetings of the city commission and of the committees thereof shall be public and any citizen shall have access to the minutes and records thereof at all reasonable times. The commission shall determine its own rules and order of business and shall keep a journal of its proceedings.

(Laws of Fla. (1925) ch. 11148, § 21)

Sec. 5.02. - Regular meetings.

At 7:30 p.m. on the first Monday in December, 1988, and thereafter at 7:30 p.m. on the first Monday in December following each regular municipal election, the city commission shall meet at the usual place for holding the meetings of the legislative body of the city, at which time the newly elected commissioners shall assume the duties of office. Thereafter, the city commission shall meet at such time as may be prescribed by ordinance or resolution, except that it shall meet regularly not less than once each month, unless such meeting is impracticable due to a federal, state, or local declaration of a state of emergency.

(Laws of Fla. (1925) ch. 11148, § 20; Laws of Fla. (1951) ch. 27856, § 1; Ord. No. 87-17, § 2, 4-13-87; Ord. No. 18-14, § 1, 11-13-18)

Sec. 5.03. - Reserved.

Editor's note— Section 5.03 derived from Laws of Fla. (1925) ch. 11148, § 18 was repealed by Ord. No. 82-40, § 2, 5-4-83. The office of mayor is now subject to election by the voters, pursuant to § 4.09 of this Charter.

Sec. 5.04. - Special meetings.

The city commission, or the city manager, may call special or emergency meetings of the commission upon at least twelve (12) hours' written notice.

(Laws of Fla. (1925) ch. 11148, § 21; Ord. No. 18-14, § 2, 11-13-18)

Sec. 5.05. - Absence from meetings.

Absence from four consecutive regular meetings of the commission shall operate to vacate the seat of a member, unless such absence is excused by the commission by resolution setting forth the fact of such excuse, duly entered upon journal.

(Laws of Fla. (1925) ch. 11148, § 22)

Secs. 5.06–5.11. - Reserved.

DIVISION 2. – ORDINANCES AND RESOLUTIONS

Sec. 5.12. - [Definitions; form; reading; publication; emergency measures; effective date; recordation.]

Editor's note— Section 5.12 was derived from Laws of Fla. ch. 57-1777, § 1; Ord. No. 372-A, § 1, 10-8-73; Ord. No. 76-33, §§ 1, 2, 9-13-76; Ord. No. 78-1, § 1, 1-23-78. It had assumed ordinance status pursuant to F.S. ch. 166 and has been deleted as inconsistent with F.S. § 166.041.

Secs. 5.13–5.15. - Reserved.

Editor's note— Ord. No. 372-A, § 2, 4-8-73, repealed former §§ 5.13–5.15, pertaining to the procedures for enacting ordinances and resolutions, which were derived from Laws of Fla. (1925) ch. 11148, §§ 25, 26, 30; Laws of Fla. (1929) ch. 14375, §§ 4, 5; Laws of Fla. (1953) ch. 29484, § 1; and Laws of Fla. ch. 61-2738, § 1.

Sec. 5.16. - Ordinances submitted by petition of voters—Requirements; procedure.

Any proposed ordinances, including ordinances for the repeal or amendment of ordinances then in effect, may be submitted to the city commission by petition signed by at least twenty per cent of the total number of registered voters in the municipality. All petitions circulated with respect to any proposed ordinances shall be uniform in character, shall contain the proposed ordinance in full, and shall have printed or written thereon the names and addresses of at least five electors who shall be officially regarded as filing the petition and shall constitute a committee of the petitioners for the purpose hereinafter named. Each signer of the petition shall sign his name in ink or indelible pencil and shall place on the petition, opposite his name, the date of his signature and his place of residence by voting precinct or ward and by street and number. The signatures to any such petition need not all be appended to one paper, but to each such paper there shall be attached an affidavit by the circulator thereof, stating the number of signers to such part of the petition and that each signature appended to the paper is the genuine signature of the person whose name it purports to be, and that it was made in the presence of the affiant and on the date indicated.

(Laws of Fla. (1925) ch. 11148, § 197)

Sec. 5.17. - Same—Petition to be filed with clerk; submission to commission.

All papers comprising a petition shall be assembled and filed with the city clerk as one (1) instrument within ninety (90) days of the date of the first signature thereon, and, when so filed, the clerk shall submit the same to the city commission at its next regular meeting and provision shall be made for public hearings upon the proposed ordinance.

(Laws of Fla. (1925) ch. 11148, § 198; Ord. No. 84-12, § 5, 4-23-84)

Sec. 5.18. - Same—Consideration by commission; election may be held if rejected; new petition required.

The city commission shall at once proceed to consider such petition and shall take final action thereon within thirty days after the date of submission. If the city commission rejects the proposed ordinance, or passes it in a different form from that set forth in the petition, or fails to act finally upon it within the time stated, the committee of the petitioners, by written demand filed with the city clerk, may require that the proposed ordinance be submitted to a vote of the electors in its original form, if, with or prior to such demand, a petition for such election signed after the final action or inaction of the city commission is filed with such city clerk bearing additional signatures of five (5) per cent of the electors of the city, none of whom were signers of the first petition. The city clerk shall forthwith cause notice of the filing of such demand and petition to be published in some newspaper of general circulation in the city, and shall also, within five (5) days, certify to the city commission the proposed ordinance, stating whether or not a special election is demanded in the petition, the percentage of registered voters who signed the two (2) petitions in the aggregate, and the date on which he published the notice last mentioned.

(Laws of Fla. (1925) ch. 11148, § 199; Ord. No. 84-12, § 6, 4-23-84)

Sec. 5.19. - Same—When election after rejection by commission may be held.

If an election is to be held not more than two (2) months nor less than thirty (30) days after the publication of such notice by the city clerk, such proposed ordinance shall be submitted to a vote of the electors at such election. If no election is to be held within the time aforesaid, the city commission shall provide for submitting the proposed ordinance to the electors at a special election to be held not later than forty-five (45) days and not earlier than thirty (30) days after the publication of the first notice, if the petitions for such ordinances and the petition for such election so demand, and if the signers of the two (2) petitions amount in the aggregate to at least twenty-five (25) per cent of the registered voters of the city; otherwise the same shall be submitted at the next regular or special municipal election. At least ten (10) days before any such election, the city clerk shall cause such ordinance to be published.

(Laws of Fla. (1925) ch. 11148, § 200; Ord. No. 84-12, § 6, 4-23-84)

Sec. 5.20. - Same—Election ballots; ordinance effective on majority vote of approval.

The ballots used when voting upon any such proposed ordinance shall state the title of the ordinance to be voted on and below it the two propositions: "For the ordinance" and "Against the ordinance."

Immediately at the left of each proposition there shall be a square in which by making a cross (X) the voter may vote for or against the proposed ordinance. If a majority of the electors voting on any such proposed ordinance shall vote in favor thereof, it shall thereupon become an ordinance of the city.

(Laws of Fla. (1925) ch. 11148, § 201; Ord. No. 84-12, § 6, 4-23-84)

Sec. 5.21. - Same—Ordinances to be approved by city attorney.

Before any ordinance so proposed shall be submitted to the city commission, it shall first be approved as to its form by the city attorney, whose duty it shall be to draft such proposed ordinance in proper legal language if called upon so to do and to render such other service to persons desiring to propose such ordinance as shall be necessary to make the same proper for consideration by the city commission.

(Laws of Fla. (1925) ch. 11148, § 202)

Cross reference— Qualifications and duties of the city attorney, § 4.21 et seq.

Sec. 5.22. - Same—Method of amending ordinances passed by electoral vote.

No ordinance adopted by an electoral vote can be repealed or amended except by an electoral vote; but an ordinance to repeal or amend any such ordinance may, by resolution of the city commission, be submitted to an electoral vote at any regular election, or at any special municipal election called for some other purpose, provided notice of the intention to do so be published by the city commission not more than sixty days nor less than thirty days prior to such election, in the manner required for the publication of ordinances. If an amendment is so proposed, such notice shall contain the proposed amendment in full. Such submission shall be in the same manner, and the vote shall have the same effect, as in cases of ordinances submitted to an electoral vote by popular petition.

(Laws of Fla. (1925) ch. 11148, § 203)

Sec. 5.23. - Zoning ordinances; amendments.

Editor's note— Section 5.23 was derived from Laws of Fla. (1953) ch. 29482, § 1. It has been deleted as superseded by F.S. ch. 166.

Sec. 5.24. - Effective date of section 5.23.

Editor's note— Section 5.24 was derived from Laws of Fla. (1953) ch. 29482, § 1. It has been deleted as obsolete.

Sec. 5.25. - Referendum petition to repeal or amend ordinances—When and where filed; contents.

If, at any time within said thirty days, a petition signed by thirty-five per cent of the total number of registered voters in the municipality be filed with the city clerk, requesting that any such ordinance be repealed or amended as stated in the petition, such ordinance shall not become effective until the steps indicated herein shall have been taken. Such petition shall have stated therein the names and addresses of at least five (5) electors as a committee to represent the petitioners.

Referendum petitions need not contain the text of the ordinance or ordinances the repeal of which is sought, but shall contain the proposed amendment, if an amendment is demanded, and shall be subject in all other respects to the requirements for petitions submitting proposed ordinances to the city commission. Ballots used in referendum elections shall conform in all other respects to those provided for in section 2.33 [§ 5.20] of this Charter.

(Laws of Fla. (1925) ch. 11148, § 204)

Editor's note— The first sentence of the above section has been deleted as superseded by § 5.12.

Sec. 5.26. - Same—Reconsideration by commission; election.

The city clerk shall, at its next meeting, present the petition to the city commission, which shall proceed to reconsider the ordinance. If, within thirty (30) days after the filing of such petition, the ordinance be not repealed or amended as requested, the city commission shall provide for submitting the proposed repeal or amendment to a vote of the electors, provided a majority of the committee named in the petition to represent the petitioners shall be [in] writing, filed with the city clerk within twenty (20) days after the expiration of the said thirty (30) days, so required. In so doing the city commission shall be governed by the provisions of section 200 [§ 5.19] of this Charter respecting the time of submission and the manner of voting on ordinances proposed to the city commission by petition; excepting that the question of calling a special election for such purpose shall be determined by the demand and number of signers of the petition requesting the repeal or amendment of such ordinance, which number shall be not less than twenty-five (25) per cent of the registered voters; and excepting, further, that the city commission may call, and fix the time for a special election for such purpose if, in its judgment, the public interest will be prejudiced by delay. If, when submitted to a vote of the electors, such repeal or amendment be approved by a majority of those voting thereon, it shall thereupon go into effect as an ordinance of the city; but if any such amendment is clearly separable from the remainder of the ordinance and does not materially affect the other provisions of such ordinance, all sections of the ordinance except that sought to be amended and those dependent thereon shall take effect as though no referendum of any portion of the ordinance had been demanded.

(Laws of Fla. (1925) ch. 11148, § 205; Ord. No. 84-12, § 6, 4-23-84)

Sec. 5.27. - Same—Ordinances submitted by initiative petition subject to referendum.

Ordinances submitted to the city commission by initiative petition and passed by the city commission without change, or passed in amended form, and not required to be submitted to a vote of the electors by the committee of the petitioners, shall be subject to the referendum in the same manner as other ordinances. If the provisions of two or more ordinances adopted or approved at the same election conflict, the ordinance receiving the highest affirmative vote shall prevail.

(Laws of Fla. (1925) ch. 11148, § 206)

Sec. 5.28. - Same—Applicable to emergency ordinances.

Ordinances passed as emergency measures shall be subject to referendum in like manner as other ordinances, except that they shall go into effect at the time indicated in such ordinances. If, when submitted to a vote of the electors, an emergency measure be not approved by a majority of those voting thereon, it shall be considered repealed as regards any further action thereunder, but such measures so

repealed shall be deemed sufficient authority for the payment in accordance with the ordinance of any expenses incurred previous to the referendum vote thereon.

(Laws of Fla. (1925) ch. 11148, § 207)

Sec. 5.29. - Preliminary steps may be taken before petitioned election is held.

In case a petition be filed requiring that a measure passed by the city commission providing for an expenditure of money, a bond issue or a public improvement be submitted to a vote of the electors, all steps preliminary to such actual expenditure, actual issuance of bonds, or actual execution of a contract for such improvement may be taken prior to the election.

(Laws of Fla. (1925) ch. 11148, § 208)

ARTICLE VI. – ELECTIONS

DIVISION 1. - REGISTRATION OF ELECTORS

Sec. 6.01. - St. Johns County registration system to be used.

Editor's note— Section 6.01 was derived from Laws of Fla. ch. 72-676, § 1. It has been deleted as superseded by F.S. §§ 166.032, 98.041 et seq.

Secs. 6.02–6.13. - Reserved.

DIVISION 2. - PRIMARY AND GENERAL ELECTIONS

Sec. 6.14. - When elections to be held.

The primary and general elections for the election of city commissioners of the City of St. Augustine, Florida, shall be as follows: The primary election shall be held on the Tuesday ten (10) weeks prior to the general election, and the general election shall be held on the first Tuesday after the first Monday of November, 2014, and thereafter primary elections shall be held on the Tuesday ten (10) weeks prior to the general election of each even numbered year and the general elections shall be held on the first Tuesday after the first Monday in November of each even numbered year.

(Laws of Fla. (1955) ch. 31217, § 3; Laws of Fla. ch. 67-1975, § 1; Ord. No. 87-17, § 3, 4-13-87; Ord. No. 12-09, § 1, 7-9-12; Ord. No. 14-02, § 1, 1-27-14)

Sec. 6.15. - When primary and general elections not necessary.

If only one (1) candidate qualifies for a group, a primary and general election for that group shall not be necessary. If only two (2) candidates qualify for a group, then their names only shall be placed on the ballot for that group in the general election and a primary election for that group shall not be necessary. If more than two (2) candidates qualify for a group, a primary election shall be necessary for that group. The names of unopposed candidates shall not appear on the primary or general election ballot. Each unopposed candidate shall be deemed to have voted for himself or herself.

(Laws of Fla. (1955) ch. 31217, § 4; Laws of Fla. ch. 67-1975, § 7; Laws of Fla. ch. 74-598, § 1; Laws of Fla. ch. 81-480, § 6)

Sec. 6.16. - Reserved.

Editor's note— At the direction of the city § 6.16 has been deleted. It was derived from Laws of Fla. (1925) ch. 11148, § 187; Laws of Fla. (1929) ch. 14375, § 8; Laws of Fla. (1931) ch. 15500, § 7; Laws of Fla. (1949) ch. 26191, § 1; Laws of Fla. (1951) ch. 27856, § 2. It is superseded by § 6.14.

Sec. 6.17. - Qualifications of voters.

Editor's note— Section 6.17 was derived from Laws of Fla. (1925) ch. 11148, § 88; Laws of Fla. (1929) ch. 14375, § 79; Laws of Fla. (1931) ch. 15500, § 8; Laws of Fla. ch. 81-480, § 3. It was superseded by F.S. § 166.032, 97.041 and unconstitutional in part (dealing with poll tax). See *Harper v. Virginia Board of Elections*, 383 U.S. 663 (1963).

Sec. 6.18. - Arrangements; appointment of chairman of city canvassing board, inspectors and clerk.

The city commission shall make necessary arrangements for holding all municipal elections and appoint a canvassing board who shall canvass and declare the results thereof. The canvassing board shall be comprised of the city attorney, the officer before whom the candidate for office qualified, and a member of the city commission who will act as chairman. The chairman of the canvassing board shall be selected from among the members of the city commission by the mayor-commissioner. The chairman of the canvassing board shall not be a candidate with opposition in the election being canvassed nor an active participant in the campaign or candidacy of any candidate with opposition in the election being canvassed. If the chairman of the canvassing board is unable to serve or is disqualified, the mayor-commissioner shall appoint as a substitute another member with the same qualifications. If a substitute member cannot be appointed as provided elsewhere in this subsection, the city commission shall appoint as a substitute member a qualified elector of the city who is not a candidate with opposition in the election being canvassed and who is not an active participant in the campaign or candidacy of any candidate with opposition in the election being canvassed.

(Laws of Fla. (1925) ch. 11148, § 190; Laws of Fla. (1929) ch. 14375, § 81; Laws of Fla. ch. 81-480, § 2; Ord. No. 87-17, § 4, 4-13-87; Ord. No. 87-14, § 1, 4-13-87)

Sec. 6.19. - When polls are open; ascertainment of canvass of returns; declaration of result; certification of election.

The results of the voting at all polling places shall be certified by the canvassing board. The chairman of the canvassing board and the city attorney shall transmit such returns to the city commission at a meeting to be held at 12:00 noon on the day following the election. At such meeting, the city commission shall canvass the returns, and the results as shown from such canvass shall be by the city commission declared to be the results of the election. The qualifying officer shall, on or before 12:00 noon, of the second day after the election, furnish a certificate of election to each person shown to have been elected.

(Laws of Fla. (1925) ch. 11148, § 191; Laws of Fla. (1929) ch. 14375, § 82; Laws of Fla. (1949) ch. 26191, § 2; Laws of Fla. ch. 81-480, § 4; Ord. No. 84-12, § 7, 4-23-84; Ord. No. 87-17, § 5, 4-13-87; Ord. No. 87-14, § 2, 4-13-87)

Editor's note— The first sentence of the above section has been deleted as superseded by F.S. § 100.011.

Sec. 6.20. - Paper ballots.

The whole number of paper ballots to be printed for any primary or general municipal election for the nomination or election of candidates for the office of city commissioner shall be divided by the number of such candidates, and the quotient so obtained shall be divided by the number of ballots in each series of ballots to be printed. The names of the candidates shall be arranged in alphabetical order for each group in the first series of ballots printed. The first names shall then be placed last and the next series of ballots printed, and this process shall be repeated until each name shall have been first. These ballots shall then be combined into tablets, or pads, with no two of the same order of name together. The ballots shall in all other respects conform as nearly possible to the form of ballots prescribed by the general election law of the State of Florida.

(Laws of Fla. (1925) ch. 11148, § 192; Laws of Fla. (1929) ch. 14375, § 83; Laws of Fla. ch. 67-1975, § 5; Laws of Fla. ch. 81-480, § 5)

Sec. 6.20.1. - Voting machine ballots.

Voting machine ballots shall conform to the form of ballots prescribed by the general election law of the State of Florida.

(Laws of Fla. ch. 81-480, § 7)

Sec. 6.21. - Nomination of commissioners; petition required; regulations for petitioners; payment of qualification fee; groups.

Candidates for the office of city commissioner shall be nominated at a nonpartisan primary election where there are more than two (2) persons nominated for each office to be filled as hereinafter provided. Any person possessing the qualifications set forth in this Charter shall be entitled to have his or her name printed upon the ballot at the primary election by written petition circulated by such candidate or on his or her behalf, signed by at least twenty-five (25) qualified electors of the City of St. Augustine, Florida. Each of said petitioning electors shall in all respects be qualified to vote in the ensuing general election to be held in the City of St. Augustine, Florida. Such written petition shall be filed with the appropriate filing officer no earlier than noon of the 71st day, and no later than noon of the 67th day, before the first primary election or the same will not be recognized. Each petitioner signing said petition shall add after his or her signature, his or her place of residence, including street and number, and voting precinct, and also the date of the signing of said petition. Each petitioner may subscribe to one nominating petition for each office to be filled and no more. All signatures shall be written in ink or indelible pencil or the same shall not be recognized. Each candidate so nominated shall, upon his or her acceptance of such nomination as provided in this Charter, pay to the qualifying officer at the time of qualifying the sum of twenty-five [dollars] (\$25.00) as his or her qualification fee. Candidates shall run in three (3) groups designated as Group One, Group Two and Group Three; and each voter may vote for one candidate in each group. The nominating petition of each candidate shall indicate the group in which his or her name is to appear on the ballot; that is to say, whether in Group One, Group Two, or Group Three; and unless so indicated, the petition shall be deemed a nullity. No candidate's name in any primary or general election shall be printed on the ballot if said candidate has notified the officer before whom the candidate qualified in writing, under oath, no later than noon the thirtieth day prior to the primary election, that he or she will not accept the nomination or office for which he or she filed qualification papers. The candidate who has withdrawn as a candidate for one group may qualify as a candidate for a different group, provided he or she complies with all the qualification procedures provided herein.

(Laws of Fla. (1925) ch. 11148, § 193; Laws of Fla. (1929) ch. 14375, § 84; Laws of Fla. (1949) ch. 26191, § 1; Laws of Fla. ch. 67-1975, § 6; Laws of Fla. ch. 74-598, § 1; Laws of Fla. ch. 81-480, § 6; Ord. No. 87-17, § 6, 4-13-87; Ord. No. 08-04, § 1, 1-28-08)

Sec. 6.22. - Reserved.

Editor's note— Section 6.22, requiring candidates to file acceptance with the city auditor and clerk, derived from Laws of Fla. (1925) ch. 11148, § 194, and Laws of Fla. (1929) ch. 14375, § 85, was repealed by Laws of Fla. ch. 81-480, § 8.

Sec. 6.23. - Primary and general election; when candidate deemed elected; tie votes.

- (a) In the primary election and in the general election to be held in May, 1969, and in each primary election and in each general election thereafter, the candidates for city commission shall run in three groups designated as Group One, Group Two and Group Three, and each voter may vote for one candidate in each group. In the general election, the successful candidates in Group One and Group Two shall be elected for a full term of four years and the successful candidate in Group Three shall be elected for a full term of two years.
- (b.1) At the primary election, if a candidate receives a majority of the votes cast in his group, then his or her name shall not be placed on the ballots for that group in the general election. Each unopposed candidate shall be deemed to have voted for himself or herself. In the event that a candidate in

any group does not receive a majority of the votes cast in his group, then, subject to the provisions of subsections (b.2) and (b.3) of this section, the names of the candidates placing first and second in that group, and their names only, shall be placed on the ballots for that group in the general election.

- (b.2) In all primary elections where there is a tie for first place in any group, the names of, and only the names of, the candidates so tying shall be placed on the ballots for that group at the general election.
- (b.3) In all primary elections where there is a tie for second place in any group and the candidate placing first in that group did not receive a majority of the votes cast in that group, then the names of, and only the names of, the candidates placing first and tying for second in that group shall be placed on the ballots in the general election.
- (c) In any general election the candidate in each group receiving the highest number of votes, is and shall be deemed, held and declared to be the person elected. In the event there shall be a tie vote in any general election, between two or more persons receiving the highest number of votes in any group, the tie vote shall be decided by lot to be conducted by the city attorney, city manager and city clerk.

(Laws of Fla. (1925) ch. 11148, § 195; Laws of Fla. (1929) ch. 14375, § 86; Laws of Fla. ch. 67-1975, §§ 2-4; Laws of Fla. ch. 81-480, § 5)

Sec. 6.24. - General laws of state to apply.

All elections held in the City of St. Augustine shall be conducted, except as otherwise provided under this Act, under the rules and conditions prescribed by law and subject to the general election laws of the State of Florida.

(Laws of Fla. (1925) ch. 11148, § 196; Laws of Fla. (1929) ch. 14375, § 87)

Sec. 6.25. - Charter amendments.

Amendments to this Charter may be submitted to the electors of the city by a two-thirds vote of the city commission, and, by petition signed by thirty-five (35) per cent of the electors of the city setting forth any such proposed amendment, shall be submitted by action of the city commission unless such amendments are authorized by the state Municipal Home Rule Powers Act. The ordinance providing for the submission of any such amendment, other than that authorized by the state Municipal Home Rule Powers Act, shall require that it be submitted to the electors at the next regular municipal election if one shall occur not less than sixty (60) days and not more than one hundred twenty (120) days after its passage; otherwise it shall provide for the submission of the amendment at a special election to be called and held within the time aforesaid.

If such amendment is approved by a majority of the electors voting thereon, it shall become a part of the Charter at the time fixed therein.

(Laws of Fla. (1925) ch. 11148, § 220; Laws of Fla. ch. 81-480, § 1)

Sec. 6.26. - Use of voting machines.

The city commission of the City of St. Augustine, Florida, may authorize the use of voting machines in any municipal election; providing that the voting procedure, voting machine ballot, and the requirements of voting machines shall be in accordance with the Florida Election Code.

(Laws of Fla. ch. 71-891, § 1)

Secs. 6.27-6.31. - Reserved.

DIVISION 3. - RECALL OF COMMISSION MEMBERS

Sec. 6.32. - Petition for recall.

Any or all members of the city commission may be removed from office by the electors by following the procedures prescribed by the general election law of the State of Florida.

(Laws of Fla. (1925) ch. 11148, § 209; Laws of Fla. ch. 81-480, § 1)

Secs. 6.33–6.40. - Reserved.

Editor's note— Laws of Fla. ch. 81-480, § 8 repealed Laws of Fla. (1925) ch. 11148, §§ 210–217 and Laws of Fla. (1929) ch. 14375, § 85, from which §§ 6.33–6.40 were derived.

State Law reference— Municipal recall provisions superseded, F.S. 100.361(10).

ARTICLE VII. – TAXATION

DIVISION 1. - ASSESSMENT AND COLLECTION OF TAXES

Sec. 7.01. - Real property defined.

Editor's note— Section 7.01 was derived from Laws of Fla. (1925) ch. 11148, § 102; Laws of Fla. (1929) ch. 14375, § 22; Laws of Fla. (1937) ch. 18877, § 5. The section has been deleted as being preempted to general law by F.S. § 166.211(2).

Sec. 7.02. - Description of property; assessment of real and personal property to be separate; liens; cost of collection.

Editor's note— Section 7.02 was derived from Laws of Fla. (1925) ch. 11148, § 108; Laws of Fla. (1925) ch. 14375, § 23; Laws of Fla. (1929) ch. 18877, § 6. It has been deleted as preempted to general law by F.S. § 166.211(2).

Sec. 7.03. - Assessment on land illegally sold, omitted from roll, etc.

Editor's note— Section 7.03 was derived from Laws of Fla. (1925) ch. 11148, § 107; Laws of Fla. (1929) ch. 14375, § 25; Laws of Fla. (1937) ch. 18877, § 8. It has been deleted as preempted to general law by F.S. § 166.211(2).

Sec. 7.04. - Percentage of taxation based on valuation in assessment roll; taxes to be uniform, etc.

Editor's note— Section 7.04 was derived from Laws of Fla. (1925) ch. 11148, § 107; Laws of Fla. (1929) ch. 14375, § 25; Laws of Fla. (1937) ch. 18877, § 8. It has been deleted as preempted to general law by F.S. § 166.211(2).

Sec. 7.05. - When taxes assessed.

Editor's note— Section 7.05 was derived from Laws of Fla. (1925) ch. 11148, § 105; Laws of Fla. (1929) ch. 14375, § 88. It has been deleted as preempted to general law by F.S. § 166.211(2).

Sec. 7.06. - Assessment listed in owner's name or unknown; failure of owner to make return.

Editor's note— Section 7.06 was derived from Laws of Fla. (1925) ch. 11148, § 104; Laws of Fla. (1929) ch. 14375, § 24; Laws of Fla. (1937) ch. 18877, § 7. It has been deleted as preempted to general law by F.S. § 166.211(2).

Sec. 7.07. - Returns; when due; information contained.

Editor's note— Section 7.07 was derived from Laws of Fla. (1925) ch. 11148, § 108; Laws of Fla. (1929) ch. 14375, § 26; Laws of Fla. (1935) ch. 18877, § 9. It has been deleted as preempted to general law by F.S. § 166.211(2).

Sec. 7.08. - When tax books close; penalties.

Editor's note— Section 7.08 was derived from Laws of Fla. (1925) ch. 11148, § 121; Laws of Fla. (1929) ch. 14375, § 37; Laws of Fla. (1931) ch. 15500, § 3. It has been deleted as preempted to general law by F.S. § 166.211(2).

Sec. 7.09. - Validation of installment tax trust fund.

Editor's note— Section 7.09 was derived from Laws of Fla. (1933) ch. 16657, § 6. It has been deleted as preempted to general law by F.S. § 166.211(2).

Sec. 7.10. - Sale of land for delinquent taxes—When authorized; statement of land to be sold to be posted and published; form of notice.

Editor's note— Section 7.10 was derived from Laws of Fla. (1925) ch. 11148, § 124; Laws of Fla. (1929) ch. 14375, § 40; Laws of Fla. (1931) ch. 15500, § 4; Laws of Fla. (1933) ch. 16657, § 4; Laws of Fla. (1937) ch. 18872, § 2. It has been deleted as preempted to general law by F.S. § 166.211(2).

Sec. 7.11. - Same—Disposition of copies of published notice.

Editor's note— Section 7.11 was derived from Laws of Fla. (1925) ch. 11148, § 124; Laws of Fla. (1929) ch. 14375, § 40; Laws of Fla. (1931) ch. 15500, § 4; Laws of Fla. (1933) ch. 16657, § 4; Laws of Fla. (1937) ch. 18872, § 2. It has been deleted as preempted to general law by F.S. § 166.211(2).

Sec. 7.12. - Same—Procedure.

Editor's note— Section 7.12 was derived from Laws of Fla. (1925) ch. 11148, § 125; Laws of Fla. (1929) ch. 14375, § 41. It has been deleted as preempted to general law by F.S. § 166.211(2).

Sec. 7.13. - General laws to apply to tax assessment.

Editor's note— Section 7.13 was derived from Laws of Fla. (1925) ch. 11148, § 119; Laws of Fla. (1929) ch. 14375, § 35; Laws of Fla. (1937) ch. 18877, § 14. It has been deleted as preempted to general law by F.S. § 166.211(2).

Sec. 7.14. - City plats.

Editor's note— Section 7.14 was derived from Laws of Fla. (1925) ch. 11148, § 113. It has been deleted as preempted to general law by F.S. § 166.211(2).

Sec. 7.15. - Cancellation of tax certificates.

Editor's note— Section 7.15 was derived from Laws of Fla. (1955) ch. 31218, § 1. It has been deleted as preempted to general law by F.S. § 166.211(2).

Sec. 7.16. - Redemption of tax certificates.

Editor's note— Section 7.16 was derived from Laws of Fla. (1937) ch. 18878, § 1. It has been deleted as preempted to general law by F.S. § 166.211(2).

Sec. 7.17. - Certificate to be cancelled when taxes are higher than certificate.

Editor's note— Section 7.17 was derived from Laws of Fla. (1937) ch. 18878, § 2. It has been deleted as preempted to general law by F.S. § 166.211(2).

Sec. 7.18. - Collection of unpaid, etc., taxes; basis of valuation.

Editor's note— Section 7.18 was derived from Laws of Fla. (1937) ch. 18878, § 3. It has been deleted as preempted to general law by F.S. § 166.211(2).

Sec. 7.19. - Entries on tax assessment roll.

Editor's note— Section 7.19 was derived from Laws of Fla. (1937) ch. 18872, § 3. It has been deleted as preempted to general law by F.S. § 166.211(2).

Sec. 7.20. - Taxation of railroad property.

Editor's note— Section 7.20 was derived from Laws of Fla. (1925) ch. 11148, § 109; Laws of Fla. (1929) ch. 14375, § 89; Laws of Fla. (1937) ch. 18877, § 10. It has been deleted as preempted to general law by F.S. § 166.211(2).

Sec. 7.21. - Certain buildings, wharves, etc., to be taxed as personal property.

Editor's note— Section 7.21 was derived from Laws of Fla. (1925) ch. 11148, § 110; Laws of Fla. (1929) ch. 14375, § 27. It has been deleted as preempted to general law by F.S. § 166.211(2).

Sec. 7.22. - When personal tax assessments are enforceable.

Editor's note— Section 7.22 was derived from Laws of Fla. (1925) ch. 11148, § 110; Laws of Fla. (1929) ch. 14375, § 27. It has been deleted as preempted to general law by F.S. § 166.211(2).

Sec. 7.23. - Incorrect assessments.

Editor's note— Section 7.23 was derived from Laws of Fla. (1925) ch. 11148, § 123; Laws of Fla. (1929) ch. 14375, § 39. It has been deleted as preempted to general law by F.S. § 166.211(2).

Sec. 7.24. - Calculations, etc., by tax assessor; certification; examination by commission; commission's certification.

Editor's note— Section 7.24 was derived from Laws of Fla. (1925) ch. 11148, § 116; Laws of Fla. (1929) ch. 14375, § 32; Laws of Fla. (1937) ch. 18877, § 12. It has been deleted as preempted to general law by F.S. § 166.211(2).

Sec. 7.25. - Assessor to transmit original roll to collector.

Editor's note— Section 7.25 was derived from Laws of Fla. (1925) ch. 11148, § 117; Laws of Fla. (1929) ch. 14375, § 33; Laws of Fla. (1937) ch. 18877, § 13. It has been deleted as preempted to general law by F.S. § 166.211(2).

Sec. 7.26. - Failure to make tax levy.

Editor's note— Section 7.26 was derived from Laws of Fla. (1925) ch. 11148, § 117; Laws of Fla. (1929) ch. 14375, § 33; Laws of Fla. (1937) ch. 18877, § 13. It has been deleted as preempted to general law by F.S. § 166.211(2).

Sec. 7.27. - Taxes, assessments, etc., to constitute lien.

Editor's note— Section 7.27 was derived from Laws of Fla. (1925) ch. 11148, § 117; Laws of Fla. (1929) ch. 14375, § 33; Laws of Fla. (1937) ch. 18877, § 13. It has been deleted as preempted to general law by F.S. § 166.211(2).

Sec. 7.28. - Validity of assessments and certificates.

Editor's note— Section 7.28 was derived from Laws of Fla. (1925) ch. 11148, § 117; Laws of Fla. (1929) ch. 14375, § 33; Laws of Fla. (1937) ch. 18877, § 13. It has been deleted as preempted to general law by F.S. § 166.211(2).

Sec. 7.29. - When taxes due and payable.

Editor's note— Section 7.29 was derived from Laws of Fla. (1925) ch. 11148, § 120; Laws of Fla. (1929) ch. 14375, § 36; Laws of Fla. (1933) ch. 16657, § 3. It has been deleted as preempted to general law by F.S. § 166.211(2).

Sec. 7.30. - Sale of personal property; notice; attachment.

Editor's note— Section 7.30 was derived from Laws of Fla. (1925) ch. 11148, § 122; Laws of Fla. (1929) ch. 14375, § 38. It has been deleted as preempted to general law by F.S. § 166.211(2).

Sec. 7.31. - General laws to apply to collection, sales, etc.

Editor's note— Section 7.31 was derived from Laws of Fla. (1925) ch. 11148, § 131; Laws of Fla. (1929) ch. 14375, § 47. It has been deleted as preempted to general law by F.S. § 166.211(2).

Sec. 7.32. - Land erroneously sold.

Editor's note— Section 7.32 was derived from Laws of Fla. (1925) ch. 11148, § 126; Laws of Fla. (1929) ch. 14375, § 42. It has been deleted as preempted to general law by F.S. § 166.211(2).

Sec. 7.33. - Tax sale certificate.

Editor's note— Section 7.33 was derived from Laws of Fla. (1925) ch. 11148, § 128; Laws of Fla. (1929) ch. 14375, § 44. It has been deleted as preempted to general law by F.S. § 166.211(2).

Sec. 7.34. - List of property sold, etc., required; disposition.

Editor's note— Section 7.34 was derived from Laws of Fla. (1925) ch. 11148, § 129; Laws of Fla. (1929) ch. 14375, § 45; Laws of Fla. (1931) ch. 15500, § 5; Laws of Fla. (1937) ch. 18872, § 1; Laws of Fla. (1937) ch. 18877, § 20. It has been deleted as preempted to general law by F.S. § 166.211(2).

Sec. 7.35. - Tax certificates purchased by city.

Editor's note— Section 7.35 was derived from Laws of Fla. (1925) ch. 11148, § 129; Laws of Fla. (1929) ch. 14375, § 45; Laws of Fla. (1931) ch. 15500, § 5; Laws of Fla. (1937) ch. 18872, § 1; Laws of Fla. (1937) ch. 18877, § 20. It has been deleted as preempted to general law by F.S. § 166.211(2).

Sec. 7.36. - Tax certificates are transferable.

Editor's note— Section 7.36 was derived from Laws of Fla. (1925) ch. 11148, § 129; Laws of Fla. (1929) ch. 14375, § 45; Laws of Fla. (1931) ch. 15500, § 5; Laws of Fla. (1937) ch. 18872, § 1; Laws of Fla. (1937) ch. 18877, § 20. It has been deleted as preempted to general law by F.S. § 166.211(2).

Sec. 7.37. - Redemption of property.

Editor's note— Section 7.37 was derived from Laws of Fla. (1925) ch. 11148, § 129; Laws of Fla. (1929) ch. 14375, § 45; Laws of Fla. (1931) ch. 15500, § 5; Laws of Fla. (1937) ch. 18872, § 1; Laws of Fla. (1937) ch. 18877, § 20. It has been deleted as preempted to general law by F.S. § 166.211(2).

Sec. 7.38. - Redemption to be recorded.

Editor's note— Section 7.38 was derived from Laws of Fla. (1925) ch. 11148, § 129; Laws of Fla. (1929) ch. 14375, § 45; Laws of Fla. (1931) ch. 15500, § 5; Laws of Fla. (1937) ch. 18872, § 1; Laws of Fla. (1937) ch. 18877, § 20. It has been deleted as preempted to general law by F.S. § 166.211(2).

Sec. 7.39. - State law as to redemption to be followed.

Editor's note— Section 7.39 was derived from Laws of Fla. (1925) ch. 11148, § 129; Laws of Fla. (1929) ch. 14375, § 45; Laws of Fla. (1931) ch. 15500, § 5; Laws of Fla. (1937) ch. 18872, § 1; Laws of Fla. (1937) ch. 18877, § 20. It has been deleted as preempted to general law by F.S. § 166.211(2).

Sec. 7.40. - Tax deed to be issued after failure to redeem; when issued; application; form.

Editor's note— Section 7.40 was derived from Laws of Fla. (1925) ch. 11148, § 129; Laws of Fla. (1929) ch. 14375, § 45; Laws of Fla. (1931) ch. 15500, § 5; Laws of Fla. (1937) ch. 18872, § 1; Laws of Fla. (1937) ch. 18877, § 20. It has been deleted as preempted to general law by F.S. § 166.211(2).

Sec. 7.41. - Foreclosure of tax certificates—By chancery suit.

Editor's note— Section 7.41 was derived from Laws of Fla. (1925) ch. 11148, § 129; Laws of Fla. (1929) ch. 14375, § 45; Laws of Fla. (1931) ch. 15500, § 5; Laws of Fla. (1937) ch. 18872, § 1; Laws of Fla. (1937) ch. 18877, § 20. It has been deleted as preempted to general law by F.S. § 166.211(2).

Sec. 7.42. - Same—Service of process against nonresident; cost.

Editor's note— Section 7.42 was derived from Laws of Fla. (1929) ch. 11148, § 129; Laws of Fla. (1929) ch. 14375, § 45; Laws of Fla. (1931) ch. 15500, § 5; Laws of Fla. (1937) ch. 18872, § 1; Laws of Fla. (1937) ch. 18877, § 20. It has been deleted as preempted to general law by F.S. § 166.211(2).

Sec. 7.43. - Recovery of land subject to tax deed; statute of limitations.

Editor's note— Section 7.43 was derived from Laws of Fla. (1925) ch. 11148, § 130; Laws of Fla. (1929) ch. 14375, § 46. It has been deleted as preempted to general law by F.S. § 166.211(2).

Sec. 7.44. - Settlement of delinquent taxes—Waiver of interest and/or penalties.

Editor's note— Section 7.44 was derived from Laws of Fla. (1935) ch. 17656, § 1; Laws of Fla. (1935) ch. 17657, § 1. It has been deleted as obsolete or not needed. See also F.S. § 166.211(2).

Sec. 7.45. - Same—Authority in general.

Editor's note— Section 7.45 was derived from Laws of Fla. (1935) ch. 17656, § 2; Laws of Fla. ch. 17657, § 2. It has been deleted as obsolete or not needed. See also F.S. § 166.211(2).

Sec. 7.46. - Payment for land sold for taxes.

Editor's note— Section 7.46 was derived from Laws of Fla. (1925) ch. 11148, § 127; Laws of Fla. (1929) ch. 14375, § 43. It has been deleted as preempted to general law by F.S. § 166.211(2).

Secs. 7.47–7.52. - Reserved.

DIVISION 2. - TAX EQUALIZATION BOARD

Sec. 7.53. - Composition; meetings; notices; powers and duties.

Editor's note— Section 7.53 was derived from Laws of Fla. (1925) ch. 11148, § 114; Laws of Fla. (1929) ch. 14375, § 30; Laws of Fla. (1937) ch. 18877, § 11. It has been deleted as preempted to general law by F.S. § 166.211(2).

Sec. 7.54. - Quorum; adjournments; clerks.

Editor's note— Section 7.54 was derived from Laws of Fla. (1925) ch. 11148, § 115; Laws of Fla. (1929) ch. 14375, § 31. It has been deleted as preempted to general law by F.S. § 166.211(2).

Secs. 7.55—7.60. - Reserved.

DIVISION 3. - LICENSES

Sec. 7.61. - Generally.

Editor's note— Section 7.61 was derived from Laws of Fla. (1925) ch. 11148, § 111; Laws of Fla. (1929) ch. 14375, § 28. It has been deleted as preempted to general law by Fla. Const. art. VII, § 1. See *City of Tampa v. Birdsong Motors*, 261 So. 2d 1 (Fla. 1972). See also F.S. ch. 205.

Sec. 7.62. - General state laws to apply to licenses; evidence of necessity to pay license.

Editor's note— Section 7.62 was derived from Laws of Fla. (1925) ch. 11148, § 112; Laws of Fla. (1929) ch. 14375, § 29. It has been deleted as preempted to general law by Fla. Const. art. VII, § 1. See *City of Tampa v. Birdsong Motors*, 268 So. 2d 1 (Fla. 1972). See also F.S. ch. 205.

Secs. 7.63—7.68. - Reserved.

DIVISION 4. - ANNUAL TAX LEVY

Sec. 7.69. - Authorized.

Editor's note— Section 7.69 was derived from Laws of Fla. (1933) ch. 16655, § 1. It has been deleted as superseded by F.S. § 166.211.

Secs. 7.70—7.74. - Reserved.

DIVISION 5. - GASOLINE TAXES

Sec. 7.75. - Exemption from certain state gasoline tax.

The City of St. Augustine, Florida, a municipal corporation, under the laws of the State of Florida, is hereby expressly exempted from the provisions of section thirteen of Senate Bill 155, as now amended, and which was passed by the legislature of the State of Florida, at its 1937 session and which act is known as: "An act imposing an additional tax upon gasoline or other like products of petroleum; providing for reports of sale of such commodities to the comptroller of the State of Florida; providing for the distribution of the moneys derived from such tax, and fixing a penalty for the violation of the provisions of this act; providing that the gasoline inspection laws of the State of Florida shall apply to this act," and the City of St. Augustine, aforesaid, is hereby authorized and empowered to create and fix the amount of gasoline tax levied and collected within the municipality and which said tax shall be independent of any general state revenue law.

(Laws of Fla. (1937) ch. 18876, § 1)

Sec. 7.76. - Authority to levy and collect tax.

The City of St. Augustine, Florida, a municipal corporation, shall have, and is hereby granted, authorized and empowered, through its city commission, the power and authority to levy and collect a tax upon gasoline sold within the city limits of the City of St. Augustine, Florida.

(Laws of Fla. (1937) ch. 18876, § 2)

Sec. 7.77. - Referendum clause.

This Act shall take effect after the approval and acceptance of the provisions hereof shall have been submitted to the qualified electors of the City of St. Augustine, St. Johns County, Florida, at a special election, or at the next ensuing city election. If the majority of all the electors voting at said election shall vote to approve and accept the provisions of this Act, then and in that event this Act shall take effect and be in force from and after the date of canvassing and declaring the result of said election. If the majority of all the electors voting at said election shall vote not to approve and accept the provisions of this Act, then and in that event the provisions of this Act shall not be operative for any purpose; that said election shall be held and canvassed and the result thereof declared in accordance with the laws pertaining to elections in the State of Florida.

(Laws of Fla. (1937) ch. 18876, § 4)

Editor's note— No records were found in the city's election files or the minutes of the city commission of an election ever having been held as required by section 7.77 supra.

ARTICLE VIII. - MUNICIPAL COURT

Sec. 8.01. - Created; appointment of judge; absence or disability of judge; sessions; judge's powers generally.

Editor's note— Section 8.01 was derived from Laws of Fla. (1925) ch. 11148, § 39. It has been deleted as Ord. No. 371-A, § 1, 9-24-73 abolished the municipal court as of Oct. 1, 1973.

Sec. 8.01.1. - Municipal judge; Florida Bar membership required.

Editor's note— Section 8.01.1 was derived from Laws of Fla. ch. 69-1531, § 1. It has been deleted as Ord. No. 371-A, § 1, 9-24-73 abolished the municipal court effective Oct. 1, 1973.

Sec. 8.02. - Jurisdiction; warrants; writs; processes; service; bail; oaths.

Editor's note— Section 8.02 was derived from Laws of Fla. (1925) ch. 11148, § 40. It has been deleted as Ord. No. 371-A, § 1, 9-24-73 abolished the municipal court effective Oct. 1, 1973.

Sec. 8.02.1. - Search warrants.

Editor's note— Section 8.02.1 was derived from Laws of Fla. ch. 65-2164, §§ 1–5. It has been deleted as Ord. No. 371-A, § 1, 9-24-73 abolished the municipal court effective Oct. 1, 1973.

Sec. 8.03. - Fines and costs; appeals bond.

Editor's note— Section 8.03 was derived from Laws of Fla. (1925) ch. 11148, § 41. It has been deleted as Ord. No. 371-A, § 1, 9-24-73 abolished the municipal court effective Oct. 1, 1973.

Sec. 8.04. - Appeals—Procedure.

Editor's note— Section 8.04 was derived from Laws of Fla. (1955) ch. 31227, § 1. It has been deleted as such act had been declared unconstitutional in *Neely v. City of St. Augustine*, 170 So. 2d 292 (Fla. 1964). In addition, Ord. No. 371-A, § 1, 9-24-73 abolished the municipal court effective Oct. 1, 1973.

Sec. 8.05. - Same—Duty of clerk.

Editor's note— Section 8.05 was derived from Laws of Fla. (1925) ch. 11148, § 43. It has been deleted as Ord. No. 371-A, § 1, 9-24-73 abolished the municipal court effective Oct. 1, 1973.

Sec. 8.06. - Reserved.

Editor's note— Laws of Fla. ch. 69-1529, § 3 repealed all laws or parts of laws in conflict. Inasmuch as §§ 1 and 2 of said act created the office of clerk of municipal court and provided the duties thereof. The editors deleted the former provisions of § 8.06 relating to the city auditor and clerk as clerk of the municipal court, derived from Laws of Fla. (1925) ch. 11148, § 42, and Laws of Fla. (1929) ch. 14375, § 6. The section has been reserved to preserve format. In addition, Ord. No. 371-A, § 1, 9-24-73 abolished the municipal court effective Oct. 1, 1973.

Sec. 8.06.1. - Municipal court clerk—Appointment; term.

Editor's note— Section 8.06.1 was derived from Laws of Fla. ch. 69-1529, § 1. It has been deleted as Ord. No. 371-A, § 1, 9-24-73 abolished the municipal court effective Oct. 1, 1973.

Sec. 8.06.2. - Same—Duties.

Editor's note— Section 8.06.2 was derived from Laws of Fla. ch. 69-1529, § 2. It has been deleted as Ord. No. 371-A, § 1, 9-24-73 abolished the municipal court effective Oct. 1, 1973.

Sec. 8.07. - Estreated bonds.

Editor's note— Section 8.07 was derived from Laws of Fla. (1925) ch. 11148, § 47. It has been deleted as Ord. No. 371-A, § 1, 9-24-73 abolished the municipal court effective Oct. 1, 1973.

Sec. 8.08. - Contempts; disposition of funds.

Editor's note— Section 8.08 was derived from Laws of Fla. (1925) ch. 11148, § 48. It has been deleted as Ord. No. 371-A, § 1, 9-24-73 abolished the municipal court effective Oct. 1, 1973.

Sec. 8.09. - Police chief to serve as court attendant.

Editor's note— Section 8.09 was derived from Laws of Fla. (1925) ch. 11148, § 49. It has been deleted as Ord. No. 371-A, § 1, 9-24-73 abolished the municipal court effective Oct. 1, 1973.

Sec. 8.10. - Persons imprisoned may be required to labor; limitations.

Editor's note— Section 8.10 was derived from Laws of Fla. (1925) ch. 11148, § 50. It has been deleted as Ord. No. 371-A, § 1, 9-24-73 abolished the municipal court effective Oct. 1, 1973.

Sec. 8.11. - Remission of fines; suspension of sentences.

Editor's note— Section 8.11 was derived from Laws of Fla. (1925) ch. 11148, § 51. It has been deleted as Ord. No. 371-A, § 1, 9-24-73 abolished the municipal court effective Oct. 1, 1973.

ARTICLE IX. - POLICE DEPARTMENT

Sec. 9.01. - Jurisdiction; Anastasia Island.

The police jurisdiction granted under this charter shall extend to and be of full force and effect upon Anastasia Island and all existing ordinances and any which may hereafter be enacted dealing with the police powers of the city shall be of force and effect upon such island. Persons violating such ordinances and who may commit breaches of the peace upon the said Anastasia Island shall be subject to arrest by

members of the police force of the City of St. Augustine and to trial before the municipal court of said city, just as though the offense had been committed within the actual corporate limits of the said city.

(Laws of Fla. (1925) ch. 11148, § 45)

Editor's note— References in the above section to a municipal court are obsolete as Ord. No. 371-A, § 1, 9-24-73 abolished the municipal court effective Oct. 1, 1973.

Sec. 9.01.1. - Hot pursuit within St. Johns County.

- (a) Any member of the police department of the City of St. Augustine, Florida, is hereby authorized to pursue across the city limits line and arrest where apprehended in St. Johns County, any person suspected of having committed an offense against the ordinances of the City of St. Augustine, Florida, provided the pursuit of such person is continuous after having originated within the corporate limits of the City of St. Augustine, Florida.
- (b) Any member of the Police Department of the City of St. Augustine, Florida, is authorized to continue a "hot pursuit" beyond the limits of said city to any point in St. Johns County, and arrest upon apprehension any person suspected of violating any ordinance of said city.
- (c) "Hot pursuit" as herein used, shall be construed to mean pursuit of a person suspected of violating an ordinance of the City of St. Augustine, Florida, said pursuit being within the limits of said city and continuing without interruption beyond the limits of said city to any point within St. Johns County, Florida.

(Laws of Fla. ch. 65-2162, §§ 1-3)

Sec. 9.02. - Arrests.

Editor's note— Section 9.02 was derived from Laws of Fla. (1925) ch. 11148, § 44. It has been deleted as it related to the municipal court, which court was abolished by Ord. No. 371-A, § 1, 9-24-73, effective Oct. 1, 1973.

Sec. 9.03. - Chief and jail officers to take bond from persons arrested.

Editor's note— Section 9.03 was derived from Laws of Fla. (1925) ch. 11148, § 46. It assumed ordinance status pursuant to F.S. ch. 166 and has been deleted as obsolete.

Sec. 9.04. - Composition; chief to control force.

The Police Force of the City of St. Augustine shall consist of a chief of police and as many subordinate officers, policemen and employees, employed on a full time basis, as the city commission shall by ordinance determine is reasonably required to enforce the law. The chief of police shall have exclusive control of the stationing and transfer of all patrolmen and other officers and employees constituting the police force, subject to the approval of the city manager and under such rules and regulations as the city commission may prescribe or as may be prescribed by the ordinances of the city.

(Laws of Fla. (1925) ch. 11148, § 54; Ord. No. 88-42, § 1, 8-8-88)

Sec. 9.05. - Additional policemen during emergencies.

In case of riot or other grave emergency and during elections or similar occasions, the city manager may appoint additional patrolmen and officers for temporary service. No person shall act as a special policeman, special detective or other special police officer for any purpose whatsoever, except on written authority of the city manager. Such authority shall be exercised only under the direction and control of the chief of police for a specified time.

(Laws of Fla. (1925) ch. 11148, § 55)

Sec. 9.06. - Powers and duties generally of chief.

The chief of police shall attend all meetings of the city commission and aid in the enforcement of order under the direction of the presiding officer. He shall execute the commands of the city commission and all processes issued by authority thereof which shall be issued to him by the mayor. He shall perform such other duties appropriate to his office as may be imposed upon him by law, the ordinances of the city, and by direction of the city manager, consistent with this Act. He shall have the right to suspend any officer or employee of the police force because of incompetency, neglect of duty, immorality, drunkenness, failure to obey orders given by proper authority or for any other just and reasonable cause and he shall immediately report the fact of such suspension to the city manager for final action.

(Laws of Fla. (1925) ch. 11148, § 56)

Editor's note— Language in the third sentence dealing with the chief of police's duties relative to the municipal court have been deleted as Ord. No. 371-A, § 1, 9-24-73 abolished the municipal court effective Oct. 1, 1973.

Sec. 9.07. - Abandoned or unclaimed property—Sale.

The Police Department of the City of St. Augustine, Florida, is hereby authorized to sell at public auction all lost, abandoned or unclaimed property now in its possession or which shall in the future come into its possession, such sales to be held at such time and at such place as shall be determined from time to time.

(Laws of Fla. (1951) ch. 27860, § 1)

Sec. 9.08. - Same—To be retained for six months.

No property as set forth in the preceding section shall be sold until after the expiration of six months from the time that such lost, abandoned or unclaimed property shall come into the possession of the Police Department of the City of St. Augustine, Florida.

(Laws of Fla. (1951) ch. 27860, § 2)

Sec. 9.09. - Same—Notice of sale.

Public notice of the time and place of such sale with a description of the property shall be published in a newspaper of general circulation published in the City of St. Augustine, Florida, ten (10) days prior to the date of such sale, one insertion of such notice of sale being sufficient.

(Laws of Fla. (1951) ch. 27860, § 3)

Sec. 9.10. - Same—Disposition of funds from sale.

All funds derived from the sale of such lost, abandoned or unclaimed property shall be paid to the St. Augustine Police Benevolent Association, Inc., a corporation not for profit, and be disbursed for the uses and purposes provided by such corporation.

(Laws of Fla. (1951) ch. 27860, § 4)

Secs. 9.11, 9.12. - Reserved.

ARTICLE X. - POLICE OFFICERS RETIREMENT SYSTEM

Sec. 10.01. - System and fund created.

(1) There is hereby created and established:

- (a) A retirement system for police officers of the City of St. Augustine, Florida, to be known as the "St. Augustine Police Officers Retirement System," by and in which name it shall, pursuant to

this Act, transact all of its business and shall have the powers and privileges of a corporation, the same to be a department or instrumentality of such city.

- (b) A special fund to be known as the "St. Augustine Police Officer's Retirement Fund," said fund to be used for the exclusive benefit of Plan Members and Beneficiaries. Any diversion of fund assets prior to the satisfaction of all liabilities related to the system shall be prohibited. The fund shall be collected, administered and disbursed according to the provisions of this Act. Actuarial deficits, if any, arising in the fund created under this Act shall be the obligation of the City of St. Augustine except as provided herein.
- (2) The fund and the system hereby created shall be in substitution for the "St. Augustine Police Officers Retirement Fund" and the retirement system thereunder, now and heretofore existing in the City of St. Augustine in pursuance of the provisions of F.S. ch. 185; and said "Police Officers Retirement Fund" and the system thereunder now and heretofore existing in said city under the provisions of said Chapter 185, shall on the effective date of this Act, stand abolished.

(Ord. No. 99-30, § 1, 10-25-99)

Sec. 10.02. - Definitions.

- (1) *"Accrued benefit"* shall mean the total monthly benefit which shall have been earned by each member for all years of creditable service of said member as follows:
 - (a) A member who terminates city employment with ten (10) or more years of creditable service shall earn a benefit at the rate of two percent (2.0%) of the member's average final salary for each year of creditable service.
 - (b) A member who terminates city employment on or after March 1, 2000 with ten (10) or more years of creditable service may elect a benefit at the rate of two and one-half percent (2.5%) of the member's average final salary for each year of creditable service, subject to the early retirement provisions of Section 10.08(5).
 - (c) A member who terminates city employment after October 1, 2005 with ten (10) or more years of creditable service shall earn a benefit at the rate of three percent (3%) of the member's average final salary for each year of creditable service earned after October 1, 2005. The three percent (3%) multiplier may apply to creditable service earned prior to October 1, 2005, subject to the provisions of Section 10.08 (7).
- (2) *"Accumulated contributions"* shall mean the sum of all amounts deducted from the salary of a member and contributed to the fund.
- (3) *"Actuarial equivalent"* shall mean a benefit of equivalent value to that which would otherwise have been provided to the member, computed as follows:
 - (a) For benefits payable in the form of a life annuity, a benefit equal to one hundred two (102) percent of that otherwise payable as ten-year certain-and-life annuity if the member is age fifty-five (55) or younger. If the member is older than fifty-five (55), 0.5 percent will be added to the one hundred two (102) percent for each year older, not to exceed one hundred eight (108) percent;
 - (b) For benefits payable in the form of a fifty (50) percent joint-and-survivor annuity, a benefit equal to ninety-four (94) percent of that otherwise payable as a ten-year certain-and-life annuity if the beneficiary is the same age as the member. If the beneficiary is younger than the member, 0.5 percent will be subtracted from the ninety-four (94) percent for each year younger. If the beneficiary is older than the member, 0.5 percent will be added to the ninety-four (94) percent for each year older, not to exceed one hundred (100) percent;
 - (c) For benefits payable in the form of a fifty (50) percent joint-and-last-survivor annuity, a benefit equal to ninety-seven (97) percent of that otherwise payable as a ten-year certain-and-life annuity if the beneficiary is the same age as the member. If the beneficiary is younger than the

member, 0.5 percent will be subtracted from the ninety-seven (97) percent for each year younger. If the beneficiary is older than the member, 0.5 percent will be added to the ninety-seven (97) percent for each year older, not to exceed one hundred (100) percent;

- (d) For benefits payable in the form of a sixty-six and two-thirds ($66 \frac{2}{3}$) percent joint-and-last-survivor annuity, a benefit equal to ninety-three (93) percent of that otherwise payable as a ten-year certain-and-life annuity if the beneficiary is the same age as the member. If the beneficiary is younger than the member, 0.5 percent will be subtracted from the ninety-three (93) percent for each year younger. If the beneficiary is older than the member, 0.5 percent will be added to the ninety-three (93) percent for each year older, not to exceed one hundred (100) percent;
 - (e) For benefits payable in the form of a one hundred (100) percent joint-and-last-survivor annuity, a benefit equal to eighty-seven (87) percent of that otherwise payable as a ten-year certain-and-life annuity if the beneficiary is the same age as the member. If the beneficiary is younger than the member, 0.5 percent will be subtracted from the eighty-seven (87) percent for each year younger. If the beneficiary is older than the member, 0.5 percent will be added to the eighty-seven (87) percent for each year older, not to exceed one hundred (100) percent.
 - (f) For benefits payable in any other form, actuarial equivalence means the same actuarial present value as the normal form of payment on any single measurement date. The determination of the actuarial present value of any form of benefit, including lump sum distributions, shall be based on the RP-2000 static mortality table (h) unisex 50/50 for healthy lives projected to 2010 for healthy members and the RP- 2000 static mortality table (d) unisex 50/50 projected to 2010 for disabled members; and an interest discount rate of 8% per annum, compounded annually. This definition may be amended by the city pursuant to the recommendation of the board with the advice of the plan's actuary and the city's actuary, such that the actuarial assumptions are not subject solely to city discretion.
- (4) *"Average final compensation"* means one-twelfth of the average annual compensation of the five
 - (5) best years of the last ten (10) years of creditable service prior to retirement, termination or death.
 - (5) *"Beneficiary"* shall mean any person so designated by a member as provided in section 11 [10.11]. In the event no designation is made the beneficiary of said member shall be his estate.
 - (6) *"Board"* shall mean the board of trustees as provided in this Act.
 - (7) *"City"* shall mean the City of St. Augustine, Florida.
 - (8) *"Creditable service"* for the purpose of this Act shall mean the total number of years and fractional parts of years of service of any police officer as follows:
 - (a) Periods of service as a police officer with the city prior to October 10, 1953, during which the police officer shall have contributed to this system or any predecessor retirement systems (other than the Federal Social Security System) for police officers of the City of St. Augustine. In determining the aggregate number of years of creditable service of any police officer, periods of absence for service in the Armed Forces after initial employment as a police officer, or any leaves of absence authorized by the city shall be added to the years of service as a police officer with the city, provided that credit for such military leave or authorized leave of absence shall not exceed five (5) years. Creditable service shall be granted to any member who is legally entitled to reemployment under the provisions of the Uniformed Services Employment and Reemployment Rights Act, without such member making the contributions required under Section 10.07(2). Otherwise, the aggregate number of years of creditable service shall mean the total number of years and fractional parts of years of service of any police officer, omitting intervening years and fractional parts of years when such police officer is not employed by the city.

- (b) For members who retire or terminate city employment on or after October 1, 2004, "creditable service" shall also include up to three (3) years of active duty in the U.S. armed forces or full-time employment as a law enforcement officer with another governmental entity prior to employment by the city, purchased by the member in accordance with this paragraph; provided the member has not received and will not receive a benefit from another retirement plan based on such prior employment as a police officer. Such purchased service may not be used for vesting purposes. An eligible member may purchase creditable service under the system for such prior employment by paying into the fund the full actuarial cost of such creditable service, as determined by the plan actuary. Such payment must be made in full prior to entering the DROP or separation from city employment, whichever occurs earlier. In the event full payment is not made prior to such date, the member shall receive only the amount of creditable service, as determined by the actuary, for which the payment made, excluding interest, is the full actuarial cost. A member purchasing such additional creditable service must also pay the full cost of any actuarial calculations required. Payment for the purchase of creditable service pursuant to this paragraph may be made using any one or a combination of the following options:
1. Cash lump sum payment.
 2. Installment payments, plus simple interest at the rate of four (4) percent per annum, deducted from the member's city salary over a period not to exceed five (5) years.
 3. Direct transfer or rollover of an eligible rollover distribution from a qualified or eligible plan, in accordance with Section 10.14.
- (c) For members who retire or terminate city employment on or after October 1, 2004, "creditable service" shall also include the years or fractional years that a member performs "Qualified Military Service" including voluntary or involuntary service in the armed forces of the United States as defined in the Uniformed Services Employment and Reemployment Rights Act (USERRA) (P.L. 103-353), as amended, or has served in the National Guard or reserve military service of the armed forces of the United States, prior to or while in the employ of the city, purchased by the member in accordance with this paragraph; provided the member has not received and will not receive a benefit from another retirement plan based on such prior service. Such purchased service may not be used for vesting purposes. The member must contribute the full actuarial cost of all such creditable service. Creditable service for National Guard or military reserve service shall be calculated by dividing the total number of official military reserve points by 365 to determine the equivalent years of fractional parts thereof to be credited. The combined total of all creditable service purchased pursuant to this paragraph and paragraph (b) of this subsection shall not exceed three (3) years. Payment for the purchase of National Guard or reserve military service shall be made in the same manner as provided in paragraph (b) of this subsection.
- (d) This section is intended to satisfy the minimum requirements of USERRA, as may be amended from time to time. To the extent that this section does not meet the minimum requirements of USERRA, the provisions of USERRA shall govern.
- (7) "*Contributions*" shall mean the amounts deducted from the salary as a member as provided in section 7 [10.07].
- (8) "*Disability retirement*" shall mean retirement upon the disability retirement rate as provided in section 10 [10.10].
- (9) "*Fund*" shall mean the St. Augustine Police Officers Retirement Fund as provided in this Act.
- (10) "*Member*" shall mean any police officer entitled to participate in the system and fund as provided in this Act.
- (11) "*Past service liability*" shall mean the liability attributable to all accrued benefits which shall have been earned by members prior to January 1, 1957.

- (12) *"Police officer"* means any person who is elected, appointed, or employed full time by any municipality, who is certified or required to be certified as a law enforcement officer in compliance with F.S. § 943.14, who is vested with authority to bear arms and make arrests, and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic or highway laws of the state. This definition includes all certified supervisory and command personnel whose duties include, in whole or in part, the supervision, training, guidance and management responsibilities of full-time law enforcement officers, part-time law enforcement officers, or auxiliary law enforcement officers, but does not include part-time law enforcement officers or auxiliary law enforcement officers as the same are defined in F.S. § 943.10(5) and (7), respectively. "Police officer" also shall include a public safety officer who is responsible for performing both police and fire services.
- (13) *"Salary"* shall mean the total cash or remuneration paid to a police officer for services rendered during a particular year. It shall include base salary, overtime, special incentive pay, and sick leave or vacation leave taken during the year. Salary shall not include lump-sum checks for leave pay accrued but never taken. Only fifty-two (52) weeks of salary may be credited in any year. For years beginning on and after October 1, 1994, salary in excess of \$150,000 shall be disregarded for all purposes of the system. As of October 1 of each calendar year thereafter, the dollar limitation as determined by the Commissioner of Internal Revenue for that calendar year will become effective for that plan year in lieu of the dollar limitation provided in the preceding sentence. For an employee who became a member prior to October 1, 1994, this limitation shall not apply to the extent that salary allowed to be taken into account under the plan would be reduced below the amount allowed to be taken into account under the plan in effect on September 30, 1994. Salary in excess of the limitations set forth in Section 401(a)(17) of the Code as of the first day of the plan year shall be disregarded for any purpose, including employee contributions or any benefit calculations. The annual compensation of each member taken into account in determining benefits or employee contributions for any plan year beginning on or after January 1, 2002, may not exceed \$200,000, as adjusted for cost-of-living increases in accordance with Section 401(a)(17)(B) of the Code.
- (14) *"Service retirement"* shall mean retirement upon the normal service retirement date or delayed service retirement date, as provided in section 8 [10.08].
- (15) *"System"* shall mean the St. Augustine Police Officers Retirement System created by this Act.
- (16) *"Total current contribution"* shall mean the total of all funds contributed for any given calendar year to the St. Augustine Police Officers' Retirement Fund, less the funds contributed that year toward amortizing the unfunded liability at December 31, 1960, (which funds shall in no event be less than three (3) percent of the unfunded liability at December 31, 1960, left unamortized at the end of the preceding calendar year).
- (17) *"Trustee"* shall mean any member of the board of trustees as provided in this Act.

(Ord. No. 99-30, § 1, 10-25-99; Ord. No. 00-05, § 1, 2-28-00; Ord. No. 00-24, § 1, 6-26-00; Ord. No. 04-19, § 1, 10-25-04; Ord. No. 06-02, § 1, 1-23-06; Ord. No. 06-29, § 1, 9-25-06; Ord. No. 10-33, § 1, 10-11-10)

Sec. 10.03. - Creation and maintenance of the fund.

The special fund created by this Act shall consist of moneys and assets derived from the following sources:

- (1) From moneys and other assets of the "police officers retirement fund" held by the board of trustees of said fund on the effective date of Article X hereof, in pursuance of F.S. ch. 185. The board of trustees of said fund shall take such action as may be required, on the effective date of this Act, to transfer to the trustees of the fund under the system hereby created such moneys and assets.
- (2) From the net proceeds of the point eighty-five (.85) percent excise or license tax which may be imposed by ordinance of the city upon those casualty insurance companies to the extent and as described and permitted in F.S. § 185.08.

- (3) Effective October 1, 2005, from a contribution of five and one-half (5.5) percent of the salary of each member, which shall be deducted by the city from each salary payment to the member and paid over to the board. Effective October 1, 1993, the contributions made by each member to the fund shall be designated as city contributions in accordance with Section 414(h) of the Internal Revenue Code, and shall be excluded from the members' gross income for federal income tax purposes. For all other purposes of the system, such contributions shall be considered member contributions. In addition, the city shall make a contribution of one percent of salary of each member which shall be paid over to the board.
- (4) From the funds of the St. Augustine Police Benevolent Association. At such time as Article X hereof, shall become operative and from time to time thereafter, there shall be transferred from the funds of the St. Augustine Police Benevolent Association such amounts as shall be agreed upon by the officers of said association and the board.
- (5) From all gifts, bequests and devises when donated for the fund.
- (6) From accretions to the fund by way of interest on bank deposits or otherwise.
- (7) From all other sources of income now or hereafter authorized by law for the augmentation of such fund.
- (8) The city shall contribute to the plan annually an amount which together with the contributions from police officers, the amount derived from the premium tax provided in F.S. § 185.08, and other income sources will be sufficient to meet the normal cost of the plan and to fund the actuarial deficiency over a period of not longer than forty (40) years. The city contributions shall be deposited on at least a quarterly basis. If the required city contributions for any plan year should exceed five (5) percent of the combined salaries of contributing plan members, the cost of living adjustment provided in Section 10.12(10) shall not be accrued until the required city contribution for a subsequent plan year equals five (5) percent or less.
- (9) The cost shall be determined by an actuarial valuation of the retirement plan which must be made at least every three (3) years commencing from the last actuarial report of the plan pursuant to F.S. § 185.35(1)(h). Such valuation shall be prepared by an enrolled actuary.

(Ord. No. 99-30, § 1, 10-25-99; Ord. No. 06-02, § 2, 1-23-06)

Sec. 10.04. - Board of trustees.

- (1) In the municipality of St. Augustine, Florida, there is hereby created a Board of Trustees of the St. Augustine Police Officers' Retirement Trust Fund, which shall be solely responsible for administering the trust fund. Effective as of the effective date of this Act, and thereafter, the board of trustees shall consist of five (5) members, two (2) of whom, unless otherwise prohibited by law, shall be legal residents of St. Augustine, Florida, who shall be appointed by the St. Augustine City Commission, and two (2) of whom shall be police officers as defined in F.S. § 185.02(1), who shall be elected by a majority of the police officers who are members of such plan. The fifth member shall be chosen by a majority of the previous four (4) members, and such person's name shall be submitted to the St. Augustine City Commission. Upon receipt of the fifth person's name, said city commission shall, as a ministerial duty, appoint such person to the board of trustees as its member. The fifth member shall have the same rights as each of the other four (4) members appointed or elected as herein provided and may succeed himself in office. Each resident member shall serve as trustee for a period of two (2) years, unless sooner replaced by the city commission at whose pleasure he shall serve, and may succeed himself as a trustee. However, the terms of the mayor, or corresponding chief executive officer of the municipality, and the chief of the police department as members of the board of trustees as provided in Laws of Fla. (1953) ch. 28230, as amended, together with any city manager and member of the City Commission of St. Augustine, Florida, as members of the board of trustees shall terminate on the effective date of this Act. Each police officer member shall serve as trustee for a period of two (2) years, unless he sooner leaves

the employment of the municipality as a police officer, whereupon the City Commission of St. Augustine, Florida, shall choose his successor in the same manner as an original appointment. Each police officer may succeed himself in office. The board of trustees shall meet at least quarterly each year. Each board of trustees shall be a legal entity with, in addition to other powers and responsibilities contained herein, the power to bring and defend lawsuits of every kind, nature and description.

- (2) The trustees shall by majority vote elect from its members a chairman and a secretary. The board of trustees may by majority vote also elect from its members a vice chairman. The secretary of the board shall keep a complete minute book of the actions, proceedings, or hearings of the board. The trustees shall not receive any compensation as such, but may receive expenses and per diem as provided by law.

The elected trustees shall be elected by the members of the system at an election held in the following manner:

- (a) By per capita vote of all the members at a meeting of which all members shall be notified in person or by mail five (5) days in advance. Elected trustees shall begin their term of office on the first Monday after election to said office. An election shall be compulsory every year.
- (b) The first election of the elected trustees shall be held within thirty (30) days after the effective date of this Act. The members of the board of trustees other than the elected trustees shall appoint the judges and clerks for the election of the elected trustees, and shall establish such rules and procedures as may be necessary to conduct the election in an orderly and equitable manner.

The time for said election shall be set by the two (2) trustees first appointed to the board and thereafter said election shall be held on that date each year, or such date as may be designated by the board. The votes shall be counted immediately following the election and the member receiving the greatest number of votes shall be declared elected.

- (3) If a vacancy occurs in an elective office of trustee, the vacancy shall be filled within thirty (30) days after the date of the vacancy for the unexpired term in the same manner as the office was previously filled.
- (4) Each trustee shall, within ten (10) days after his appointment or election, take an oath of office before the city chief accountant or a notary public, that so far as it devolves upon him he will diligently and honestly administer the affairs of the said board, and that he will not knowingly violate or willingly permit to be violated any of the provisions of the law applicable to this system. Such oath shall be subscribed to by the trustee making it and certified by the said city chief accountant or notary public and retained as a permanent record in the files of the board.
- (5) In addition to its quarterly meetings, the board shall hold special meetings at any time requested by the chairman or any three (3) trustees. The chairman shall designate the time and place of each meeting by written notice to the trustees and members, such notice to be delivered or placed in the mail to said trustees and members at least twenty-four (24) hours prior to the convening of said meeting. All meetings of the board shall be open to the members of the system and to the public.
- (6) Three (3) trustees shall constitute a quorum at any meeting of the board. Each trustee shall be entitled to one vote in the meetings of the board. At least three (3) concurring votes shall be necessary for a decision by the board. The board shall have the right to dismiss any elected trustee if, after hearing before the members of the system, it is found that the said trustee has failed to comply with any of the stipulations of Article X hereof, involving moral turpitude as defined by Florida Law.
- (7) The board of trustees, subject to the limitations of this Act and within the standards and purposes of this Act, shall make such rules and regulations as are necessary for the effective administration of the system and fund created by this Act and for transaction of its business. The board shall keep records of all its proceedings and such records on each member as it may deem necessary and

proper in its administration of this Act. Said board shall make investigations concerning the enforcement and effect of this Act and its adopted rules and regulations. It shall make an annual report to the members of the system which shall include a financial report of the receipts, disbursements, assets and liabilities of the fund.

- (8) The board shall engage such actuarial, legal or other services as shall be required to transact the business of the fund. The compensation of all persons engaged by the board and all expenses necessary for the operation of the system shall be paid by said system at such rates and in such amounts as the board shall agree.
- (9) The secretary of the board shall execute bonds in such amounts as may from time to time be fixed by the board for the faithful performance of his duties. The board shall establish a system of accounting, and do all things, take all actions, and make all rules and regulations, not inconsistent with the provisions of this Act, that it deems necessary and proper to safeguard the funds placed in its custody and to carry out the provisions of this Act.
- (10) The secretary of the board shall be the custodian of all records maintained by the board. The secretary shall permit inspection of all records held in his custody by any trustee or member of the system. The secretary shall keep a record of all persons receiving retirement payments under this system, in which it shall be noted the time when the pension begins and when the pension shall cease to be paid. In this record, the secretary shall keep a list of all police officers employed by the City, including the name, address, and dates of employment of each police officer.
- (11) In the absence of the chairman of the board at any meeting of the trustees the vice chairman shall serve as chairman and in the absence of both the chairman and the vice chairman at any meeting of the trustees, the secretary shall serve as chairman.
- (12) At least once every three (3) years, the board of trustees, shall retain an independent consultant professional qualified to evaluate the performance of professional money managers. The independent consultant shall make recommendations to the board of trustees regarding the selection of money managers for the next investment term. These recommendations shall be considered by the board of trustees at its next regularly scheduled meeting. The date, time, place, and subject of this meeting shall be advertised in a newspaper of general circulation in the municipality at least ten (10) days prior to the date of the hearing.
- (13) In connection with the administration of the fund the board of trustees is authorized and empowered to institute proceedings in court and be sued, in the name of the system.

(Ord. No. 99-30, § 1, 10-25-99; Ord. No. 00-24, § 2, 6-26-00)

Sec. 10.045. - City attorney to represent board of trustees.

The city attorney shall give advice to said board of trustees in all matters pertaining to their duties in the administration of said municipal police officers' retirement trust fund whenever requested; and he shall represent and defend said board as its attorney in all suits and actions at law or in equity that may be brought against it, and bring all suits and actions in its behalf that may be required or determined upon by said board; provided, however, that if the board of trustees so elects, it may employ independent legal counsel at the pension fund's expense for the purposes contained herein, together with such other professional, technical, or other advisers as the board deems necessary.

(Ord. No. 99-30, § 1, 10-25-99)

Sec. 10.05. - Management of the funds.

- (1) The board is solely responsible for administering the trust, and shall be responsible for investing the assets of the system in accordance with this section. The board shall exercise its duties with respect to the system for the exclusive purpose of providing benefits to members and their beneficiaries and defraying the reasonable expenses of administering the system. The board shall exercise its investment authority with the care, skill, prudence and diligence under the

circumstances then prevailing that a prudent person in a like capacity and familiar with such matters would use in the conduct of an enterprise with like character and like aims, and by diversifying the investments of the system so as to reduce the risk of large losses, unless under the circumstances it is clearly prudent not to do so. The board shall have full power to hold, purchase, sell, assign, transfer and dispose of any of the securities and investments in which any of the assets of the system have been invested, as well as the proceeds of such investments and any moneys belonging to the fund, in accordance with this section. The board may employ outside investment counsel to advise the board in the making and disposition of investments.

- (2) The board shall adopt and periodically update a written investment policy in accordance with Section 112.661, Florida Statutes, incorporating the following requirements for specific investments:
 - (a) The board may invest in money market instruments, stocks, corporate bonds, bonds or other obligations of the United States of America, either directly or through pooled or commingled funds.
 - (b) The board may make direct investment in bonds, notes, or obligations of any municipality or political subdivision or any agency or authority of the State of Florida, if the obligations are rated investment grade by at least one nationally recognized rating organization.
 - (c) The board may invest up to fifteen (15) percent of its assets in real estate only through participation in commingled funds or insurance company group annuity separate accounts holding diversified real properties. Insurance companies must be licensed to do business in the State of Florida and commingled funds and insurance companies must be rated investment grade by at least one nationally recognized rating organization. Any commingled or pooled vehicles used by the board should have investment guidelines that are materially consistent with the guidelines herein.
 - (d) The board may invest up to fifteen (15) percent of its assets in mortgage loan securities secured by real property only through participation in commingled funds or insurance company separate accounts holding diversified mortgage securities. Insurance companies must be licensed to do business in the State of Florida and commingled funds and insurance companies must be rated investment grade by at least one nationally recognized rating organization. Any commingled or pooled vehicles used by the board should have investment guidelines that are materially consistent with the guidelines herein. Mortgage securities of commingled funds must be issued by an agency of or enterprise sponsored by the United States Government, including, but not limited to, the Government National Mortgage Association, the Federal National Mortgage Association, and the Federal Home Loan Mortgage Corporation.
 - (e) The board may invest up to five (5) percent of its assets in stock and corporate bonds of any one (1) issuing company either directly or through pooled or commingled funds.
 - (f) The aggregate investment in stock either directly or through pooled or commingled funds shall not exceed seventy (70) percent (at cost) of the assets of the fund.
 - (g) The average credit quality of the fixed income portfolio shall be rated "A" or higher. No more than 15% of the fixed income portfolio may be rated lower than "BBB". The duration of the fixed income portfolio shall remain within 35% of the duration of a market index selected by the board. If there is no index selected, the default index shall be the Lehman Aggregate Bond Index.
 - (h) The board may invest up to twenty-five percent (25%) of the assets of the fund, in corporate obligations and/or securities of a foreign corporation or a foreign commercial entity that are not subject to United States securities laws. United States dollar-denominated securities listed and traded on a United States exchange would not be included in this limitation.

- (3) The board shall deposit the funds and securities of the city police officers' retirement trust fund in a qualified public depository as defined in section 280.02(26), Florida Statutes, which depository with regard to such funds and securities shall conform to and be bound by all of the provisions of Chapter 280, Florida Statutes.
- (4) The board may issue drafts upon the city police officers' retirement trust fund pursuant to Article X hereof, and rules and regulations prescribed by the board. All such drafts shall be consecutively numbered, be signed by the chairman and secretary and state upon their faces the purposes for which the drafts are drawn. The city director of financial services shall retain such drafts when paid, as permanent vouchers for disbursements made, and no other money shall otherwise be drawn from the fund.
- (5) No trustee shall have any interest, direct or indirect, in the gains or profits of any investment made by the board, save insofar as such trustee may be a member or beneficiary of the system. No trustee shall in any manner, directly or indirectly, for himself or as an agent, use the funds or deposits of the system except to make such payments therefrom as are authorized by the board, nor shall any member of the board become an endorser or surety or in any manner an obligor for moneys loaned by or borrowed from the fund.
- (6) The board shall have the right to purchase an individual annuity from an insurance company, when a member becomes eligible for service retirement, in an amount sufficient to pay the retired member his earned monthly pension of retirement.
- (7) Notwithstanding any provision of this section to the contrary, the Board shall identify and publicly report any direct or indirect holdings it may have in any scrutinized company, as defined in section 215.473, Florida Statutes, and proceed to sell, redeem, divest, or withdraw all publicly traded securities it may have in that company beginning January 1, 2010. The divestiture of any such security must be completed by September 30, 2010. The Board and its named officers or investment advisors may not be deemed to have breached their fiduciary duty in any action taken to dispose of any such security, and the board shall have satisfactorily discharged the fiduciary duties of loyalty, prudence, and sole and exclusive benefit to the members of the pension fund and their beneficiaries if the actions it takes are consistent with the duties imposed by section 215.473, Florida Statutes, and the manner of the disposition, if any, is reasonable as to the means chosen. For the purposes of effecting compliance with that section, the pension fund shall designate terror-free plans that allocate their funds among securities not subject to divestiture. No person may bring any civil, criminal, or administrative action against the board of trustees or any employee, officer, director, or advisor of such pension fund based upon the divestiture of any security pursuant to this paragraph.

(Ord. No. 99-30, § 1, 10-25-99; Ord. No. 00-05, § 2, 2-28-00; Ord. No. 00-24, § 3, 6-26-00; Ord. No. 08-28, § 1, 1-12-09; Ord. No. 10-33, § 2, 10-11-10)

Sec. 10.06. - Participation in the system.

- (1) All full-time police officers employed by the City of St. Augustine shall be members of this system.
- (2) The membership of any police officer in this system shall cease upon the payment from the fund of his accumulated contributions.
- (3) The contributions required of a member under this Act shall cease upon service retirement, disability retirement, death or other termination of employment, except as hereinafter provided.
- (4) Should a member be involuntarily laid off, suspended, or discharged, or voluntarily terminate his employment as a police officer with the city and withdraw his accumulated contributions from the fund, he shall, for the purposes of this Act, be deemed to be a new employee as of his date of reinstatement or reemployment and his creditable service shall commence as of such date. Provided that in the event that such member's accumulated contributions are left in the fund and he is reinstated or reemployed within five years of the termination of his last period of employment the police officer may have his creditable service credit restored for membership under the system

during his last period of employment; provided however that if said member shall not reenter employment by the end of five years following his involuntary layoff, suspension, discharge or termination his accumulated contribution shall be paid to him and he shall thereafter receive no creditable service credit for such prior employment.

- (5) Reserved.
- (6) Members entitled to a service retirement pension under this system shall not forfeit the same upon dismissal as a police officer, but shall be retired as hereinafter provided.

(Ord. No. 99-30, § 1, 10-25-99; Ord. No. 00-24, § 4, 6-26-00)

Sec. 10.07. - Contributions to the fund.

- (1) Effective October 1, 2005, each member shall contribute to the Fund for each pay period at the rate of five and one-half (5.5) percent of salary. The city shall deduct such contribution from the salary of each member for every payroll period and shall immediately pay said contribution to the board. Effective March 1, 2000, each member may be required to contribute to the fund an amount up to an additional three percent (3%) of salary (above the five and one-half (5.5) percent of salary amount specified in subsection (1), for the period necessary to meet plan contribution requirements. However, before there is any increase in the member contribution rate, the prefunded future cost of living adjustment provided in Section 10.12(10) shall be reduced in whole or part for members who have not retired prior to the time additional contributions are otherwise required, for as long as necessary to meet the funding requirements of the plan. In the event the additional member contributions specified in this subsection (2) are not sufficient to meet the minimum contribution requirements for the plan, then future cost of living adjustments will be reduced in whole or part for those members who retire on or after March 1, 2000 and are retired at the time additional contributions are otherwise required, for as long as necessary to meet the funding requirements of the plan. Once the suspension of cost of living adjustments is no longer necessary to meet minimum plan funding requirements, such adjustments will be restored in reverse order of their suspension. No member shall have any entitlement to cost of living adjustments that are suspended pursuant to this agreement. In the event that shortfalls in funding still exist after the above contribution increases and benefit adjustments are implemented, additional future benefits will be reduced to meet plan funding requirements.

(Ord. No. 99-30, § 1, 10-25-99; Ord. No. 00-05, § 3, 2-28-00; Ord. No. 00-24, § 5, 6-26-00; Ord. No. 06-02, § 3, 1-23-06)

Sec. 10.08. - Service retirement.

- (1) Each member may become eligible for service retirement on his normal service retirement date, which shall be the first day of the calendar month next following the date on which said member shall have either completed ten (10) years of creditable service and attained at least his fifty-fifth birthday or completed twenty-five (25) years of creditable service and attained at least his fifty-second birthday; provided, however, should such member continue employment beyond his normal service requirement date, such member may retire on the first day of any calendar month thereafter, which date shall be the delayed service retirement date. For members who retire or terminate city employment on or after October 1, 2004, the normal service retirement date shall be upon attaining twenty-five (25) years of creditable service, regardless of age. Effective March 1, 2000, a member who terminates city employment with more than ten (10) but less than twenty-five (25) years of creditable service shall be eligible for a normal service retirement benefit upon reaching age 55.
- (2) Each member who shall become eligible for service retirement as hereinabove provided shall receive a monthly pension which shall commence on his normal service retirement date or delayed service retirement date, and except as provided in section 9 [10.09], shall continue to be paid each month thereafter to the member or his beneficiary for ten (10) years and to the member for his remaining lifetime thereafter. The amount of such monthly pension shall be the accrued benefit as of his date of retirement.

- (3) From a contribution of four (4) percent of the salary of each member, which shall be deducted by the city from each salary payment to the member and paid over to the board. Effective October 1, 1993, the contributions made by each member to the fund, including installment payments deducted from a member's salary to purchase additional creditable service pursuant to Section 10.02(b) and (c), shall be designated as city contributions in accordance with Section 414(h) of the Internal Revenue Code, and shall be excluded from the member's gross income for federal income tax purposes. For all other purposes of the system, such contributions shall be considered member contributions. In addition, the city shall make a contribution of one (1) percent of the salary of each member which shall be paid over to the board. Effective March 1, 2000 the city shall make a total contribution of two and one-half (2.5) percent of the salary of each member which shall be paid over to the board.
- (4) If a member recovers from disability and reenters the service of the city as a police officer his service will be deemed to have been continuous, but the period beginning with the first month for which he received a disability retirement income payment and ending with the date he reentered the service of the city will not be considered as credited service for the purposes of the plan.
- (5) For members who retire from active employment and begin receiving benefits prior to March 1, 2000 a temporary supplemental retirement allowance shall be paid the retirant if his date of retirement precedes his sixty-fifth birth date. The amount of temporary supplemental retirement allowance shall be equal to the retirant's credited service, multiplied by one-half of one (0.50) percent of his average final compensation. The temporary supplemental retirement allowance terminates upon the retirant's attainment of age sixty-five (65) years or his prior death.
- (6) A member who terminates employment on or after March 1, 2000 may elect one of the following early retirement options based on age and years of creditable service at retirement:
 - (a) A member with at least 10 years of creditable service who has reached age 50 may retire with an early retirement benefit equal to 2.0% of average final compensation multiplied by years of creditable service, with a reduction of three percent (3%) for each year by which the member's age at early retirement precedes the normal service retirement date.
- (7) A member with ten (10) or more years of creditable service who terminates employment on or after October 1, 2005 shall earn a retirement benefit equal to three percent (3%) of average final salary for each year of creditable service worked after October 1, 2005. Notwithstanding any provision of this section to the contrary, the three percent (3%) multiplier shall also apply to creditable service earned by such members prior to October 1, 2005, as follows:
 - (a) For members with less than twenty (20) years of creditable service on October 1, 2005, the three percent (3%) multiplier shall apply to two (2) years of creditable service earned prior to October 1, 2005 for each one (1) year of creditable service worked after October 1, 2005, up to the member's total number of years of creditable service or the maximum number of years of creditable service, if any, allowed by the Plan, whichever is less.
 - (b) For members with twenty (20) or more years of creditable service on October 1, 2005, the three percent (3%) multiplier shall apply to four (4) years of creditable service earned prior to October 1, 2005 for each of the first two years of creditable service worked after October 1, 2005; and the three percent (3%) multiplier shall apply to two (2) years of creditable service earned prior to October 1, 2005 for each year worked thereafter, up to the member's total number of years of creditable service or the maximum number of years of creditable service, if any, allowed by the Plan, whichever is less.
- (8) Distribution of a member's benefit under this Plan must commence no later than April 1 of the calendar year following the later of the calendar year during which the member attains age seventy and one-half (70½) or the calendar year in which the member terminates employment with the Employer.

(Ord. No. 99-30, § 1, 10-25-99; Ord. No. 00-05, § 4, 2-28-00; Ord. No. 04-19, § 2, 10-25-04; Ord. No. 06-02, § 4, 1-23-06; Ord. No. 10-33, § 3, 10-11-10)

Sec. 10.09. - Optional modes of pension.

- (1) Each member shall have the right at any time at least two (2) years prior to actual retirement to elect to have his pension payable under any one of the options set forth in this section in lieu of the pension otherwise payable to him upon service retirement under any of the provisions of this Act. The amount of any such optional pension shall be the actuarial equivalent of the amount of such pension otherwise payable to him. The member shall make such an election by written request to the board and this election shall be subject to the approval of the board.

Option A. Straight life option: A member may elect to receive an increased pension with such pension payments terminating immediately upon the death of the member.

Option B. Joint and last survivor option: A member may elect to receive a modified pension payable to the member during the joint lifetime of the member and a joint pensioner designated by the member, and following the death of either of them, one hundred (100) percent, sixty-six and two-thirds (66 2/3) percent or fifty (50) percent of such monthly amount payable to the survivor for the lifetime of the survivor.

Option C.: Such other amount and form of retirement payments of benefit as, in the opinion of the board of trustees, will best meet the circumstances of the retiring member.

- (2) The election by a member of any one of the options stated in this section 9 [10.09] shall be null and void if the member dies prior to retirement; provided, however, that Option A and Option B above shall not be voided in event a member continues in employment subsequent to becoming eligible for service retirement and dies prior to actual retirement. The election by a member of Option B above shall be null and void if the person designated to receive last survivor benefits by the member dies before the member's actual retirement.
- (3) A member who has elected any one of the options stated in this section 9 [10.09] may, at any time within the period provided for such election, revoke any election by written notification to the board.
- (4) This subsection (4) applies to distributions made on or after January 1, 1993. Notwithstanding any provision to the contrary that would otherwise limit a distributee's election under this subsection, a distributee may elect, at the time and in the manner prescribed by the board, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.
 - (a) For a member eligible for service retirement who elects to receive a single-sum payment or equal installments over a period of less than ten (10) years, an "eligible rollover distribution" is that portion of the single sum or installment that represents city contributions under Section 414(h) of the Internal Revenue Code, to the extent that it exceeds the required minimum distribution, if applicable, under Section 401(a)(9) of the Internal Revenue Code.
 - (b) For a member or surviving spouse who receives a refund of accumulated contributions under section 10.11(4) hereof, an "eligible rollover contribution" is that portion of the accumulated contributions that represents the city contributions under Section 414(h) of the Internal Revenue Code.
 - (c) An "eligible retirement plan" is an individual retirement account described in Section 408(a) of the Code, an individual retirement annuity described in Section 408(b) of the Code, an annuity plan described in Section 403(a) of the Code, or a qualified trust described in Section 401(a) of the Code, that accepts the distributee's eligible rollover distribution. However, in the case of an eligible rollover distribution to the surviving spouse, an eligible retirement plan is an individual retirement account or individual retirement annuity.
 - (d) A "distributee" includes a member or former member, or a member's or former member's, surviving spouse.
 - (e) A "direct rollover" is a payment by the system to the eligible retirement plan specified by the distributee.

- (5) If a member elects an option with a joint pensioner and the member's retirement benefits have commenced, the member may thereafter change the designated joint pensioner up to two times. The consent of a member's joint pensioner or of the board of trustees to any such change shall not be required. The amount of the retirement income payable to the member upon designation of a new joint pensioner shall be actuarially redetermined by the application of actuarial tables and calculations to ensure that the benefit paid is the actuarial equivalent of the present value of the member's current benefit and that there is no impact to the plan. Each such designation will be made in writing on a form prepared by the board of trustees and on completion will be filed with the board of trustees. In the event that no joint pensioner survives the member, such benefits as are payable in the event of the death of the member subsequent to his or her retirement shall be paid to the member's estate.

(Ord. No. 99-30, § 1, 10-25-99; Ord. No. 10-33, § 4, 10-11-10)

Sec. 10.10. - Disability retirement.

- (1) A police officer will be considered totally disabled if, in the opinion of the board of trustees, he is wholly prevented from rendering useful and efficient service as a police officer. A member may become eligible for disability retirement on his disability retirement date provided such eligibility is approved by resolution of the board. Such member may retire from the service of the city under the plan if he becomes totally and permanently disabled as defined in subsection (2), by reason of any cause other than a cause set out in subsection (3), on or after the effective date of the plan. Such retirement shall herein be referred to as disability retirement.
- (2) The benefit payable to a police officer who retires from the service of the city with a total and permanent disability as a result of a disability commencing prior to his normal retirement date is the monthly income payable for ten (10) years certain and life for which, if the police officer's disability occurred in the line of duty, his monthly benefit shall be the accrued retirement benefit, but shall not be less than forty-two (42) percent of his average monthly compensation as of his disability retirement date. If the disability is other than in the line of duty, the police officer's monthly benefit shall be the accrued normal retirement benefit, but shall not be less than twenty-five (25) percent of his average monthly compensation as of his disability retirement date.
- (3) The monthly retirement income to which a police officer is entitled in the event of his disability retirement shall be payable on the first day of the first month after the board of trustees determines such entitlement. However, the monthly retirement income shall be payable as of the date the board determines such entitlement (the "disability retirement date"), and any portion due for a partial month shall be paid together with the first payment.
- (4) Upon termination of a member's monthly disability pension because of recovery from such disability, and provided he reenters active employment as a police officer one year after such recovery, he shall continue to be a member of the system and shall thereafter make his required contributions to the fund. In such event the member's creditable service credit for service as a police officer prior to his disability retirement shall be restored but he shall not receive creditable service credit for the period of his disability, nor for any periods for which he did not make regular contributions. Should the member fail to reenter active employment as a police officer within one year after recovery from disability his membership under this system shall terminate.
- (5) Once each year following the disability retirement of a member who is receiving a monthly disability pension, the board may require such member to undergo a medical examination conducted by a duly qualified physician appointed by the board. Following such medical examination, the board may determine whether the member is capable of performing useful and efficient service as a police officer [and if he is,] the board shall order his disability pension discontinued. Should the member refuse to submit to any medical examination required by the board, his monthly disability pension shall be discontinued until his withdrawal of such refusal, and should such refusal continue for one year, all his rights to any further disability pension shall cease and his membership under the system shall thereupon terminate.

- (6) No member shall be eligible for disability retirement whose disability was incurred while committing a felony.
- (7) Disability in the line of duty. Any condition or impairment of health of any and all police officers employed in the city caused by hypertension, heart disease, hardening of the arteries, or any condition set forth in section 112.181, Florida Statutes, resulting in total or partial disability or death shall be presumed to be accidental and suffered in the line of duty unless the contrary be shown by competent evidence. Any condition or impairment of health caused directly or proximately by exposure, which exposure occurred in the active performance of duty at some definite time or place without willful negligence on the part of the police officer, resulting in total or partial disability, shall be presumed to be accidental and suffered in the line of duty; provided however, that such police officer shall have successfully passed a physical examination upon entering such service, which physical examination including electrocardiogram failed to reveal any evidence of such condition; provided further, that such presumption shall not apply to benefits payable under or granted in a policy of life insurance or disability insurance. This section shall be applicable to all police officers employed in the city only with reference to pension and retirement benefits under this system.

(Ord. No. 99-30, § 1, 10-25-99; Ord. No. 00-24, § 6, 6-26-00)

Sec. 10.11. - Benefits upon death or termination.

- (1) Each member shall name a beneficiary to receive any benefits payable upon the member's death, such designation to be made on a form provided by the board. A member may change his designation of the beneficiary from time to time in the same manner.
- (2) In event a member who has elected Option B under section 9 [10.09] dies subsequent to his normal service retirement date but while still employed as a police officer, in lieu of any other benefit payable hereunder by reason of death, there shall be payable to his beneficiary the same monthly pension that would otherwise have been payable under Option B if the member had retired on his normal service retirement date.
- (3) Should a member's death occur prior to his normal service retirement date, or after his normal service retirement date and before reaching his delayed service retirement death, unless such death occurs following disability retirement as provided in section 10 [10.10], there shall be paid to his beneficiary a monthly pension which shall commence on the first day of the calendar month next following the death of the member and shall continue to be paid each month thereafter for a period equal to the lesser of one hundred twenty (120) months or the life expectancy of the beneficiary. The amount of such monthly pension shall be the accrued benefit of the member as of the date of death. In the event of the member's death following disability retirement, the provisions of section 10 [10.10] shall be operative.
- (4) If the employment of any member who has not completed ten (10) years of creditable service is terminated other than by service retirement or death, such member shall be entitled to a refund of one hundred (100) percent of his accumulated contribution made to the fund without interest. Any such terminated member may leave his accumulated contributions in the fund for a period not exceeding five (5) years pending reemployment, and upon reemployment as a police officer within said five (5) years, all creditable service credit under the system for his last period of employment shall be restored. Any such member who fails to be reemployed as a police officer within five (5) years shall be refunded one hundred percent of his contributions to the fund, without interest, and all prior creditable service credit shall be forfeited should he be reemployed at a later date. Upon payment of the accumulated contributions as herein provided, the membership of such terminated member shall thereupon cease and no further benefits shall be payable under the system. That portion of a terminated member's benefit that is not vested shall be forfeited and used only to reduce future costs of the system.
- (5) Any other provision of the Act notwithstanding any member who has completed ten (10) years of creditable service at such time as employment as a police officer is terminated shall be entitled to a

monthly pension, provided such member shall not withdraw his accumulated contributions. Such monthly pension shall commence on the first day of any calendar month coinciding with or following the member's otherwise early or normal service retirement date and shall continue to be paid each month thereafter as though the member had retired under the provisions of section 10.08 of this Act. Benefits shall be distributed or shall commence to the member not later than April 1 of the calendar year following the later of the calendar year in which the member attains age seventy and one-half (70½) or the calendar year in which the member terminates employment, and shall be paid:

- (a) Over the lifetime of the member or the lifetimes of the member and beneficiary; or
 - (b) Over a period not exceeding the joint life expectancy of the member and beneficiary.
- (6) Notwithstanding the provisions of this section, a retiree may change his or her designation of beneficiary up to two times without the approval of the Board or the current beneficiary.
 - (7) If a member dies on or after January 1, 2007 while performing Qualified Military Service as defined by USERRA, the member's beneficiaries shall be entitled to any benefits the member would have been entitled to had he or she resumed employment and then died while employed.

(Ord. No. 99-30, § 1, 10-25-99; Ord. No. 10-33, § 5, 10-11-10)

Sec. 10.12. - Miscellaneous.

- (1) The authority having the power to hire the services of a police officer shall prepare such records and from time to time shall furnish such information concerning a member as the board may require in the discharge of its duties. Upon the employment of a police officer, the authority shall inform the police officer of his duties and obligations in connection with the system as a condition of employment.
- (2) Should any change or error in records result in any member or beneficiary receiving from the system more or less than he would have been entitled to receive had the records been correct, than on discovery of any such error the board shall correct the same and as far as practicable shall adjust the payments in such manner that the actuarial equivalent of the benefit to which the member or beneficiary was correctly entitled shall be paid.
- (3) All pensions and other benefits accrued or accruing to any person under the provisions of this Act, and the accumulated contributions and cash securities in the funds created under this Act, are hereby exempted from any state, county or municipal tax, and shall not be subject to execution, attachment, garnishment, or any other process whatever, nor shall any assignment thereof be enforceable in any court.
- (4) All provisions of any ordinance of the City inconsistent with the provisions of Article X hereof, are hereby repealed to the extent of such inconsistencies.
- (5) If this Act shall later be amended or repealed in its application to any person benefitting hereunder, the amount of benefits which at the time of any such alteration, amendment, or repeal shall have accrued to the member or beneficiary shall not be affected thereby.
- (6) In the event of a complete discontinuance of contributions to the fund or upon termination of the system, the interest of each member in the system to the extent then funded shall become one hundred (100) percent non-forfeitable, and the assets of the system shall be apportioned and distributed in accordance with the provisions of F.S. § 185.37, as amended.
- (7) If any clause, section or provision of this Act shall be declared to be unconstitutional or invalid for any cause or reason, the same shall be eliminated from this Act, and the remaining portion of said Act shall be in force and effect, and shall be as valid as if such invalid portion had not been incorporated.
- (8) Vested rights which may exist on the effective date of this Act in favor of any member of the existing retirement system under F.S. ch. 185 shall not be impaired; provided, that any person who

may claim that the abolishment of the retirement system under said F.S. ch. 185 violates a claimed vested right thereunder, shall, within one year of the effective date of this Act, notify the board in writing of such claim. Upon receipt of such claim the board shall, without delay, in an appropriate proceeding and forum, obtain a judicial construction with respect to the question of such claim of violated vested rights. Should the final judgment or decree in said proceeding sustain the claim of any such person, the board shall conform its administration of the fund in relation to such person to meet with the requirements of any such decree or judgment.

- (9) Any person who shall knowingly make any false statement or shall falsify or permit to be falsified any record or records of the system in any attempt to defraud the system shall be guilty of a misdemeanor of the first degree and be subject to punishment as provided by law.
- (10) The board of trustees is hereby authorized to grant periodic cost-of-living adjustments to benefits payable to all retired members, including members who are participating in the deferred retirement option program in accordance with section 10.13, during the continuation of benefits being payable under this plan; however, such adjustment shall not be made more frequently than on an annual basis. The conditions for granting such adjustments are as follows:
 - (a) The granting of same is actuarially sound and will not substantially affect the financial stability of the plan and will not require additional funding of the plan from any city funds from any source apart from funds received as tax levy proceeds authorized by F.S. ch. 185.08.
 - (b) The board shall formally approve the adjustments based on data contained in the current actuarial evaluation.
 - (c) The adjustment shall be divided into a "prefunded" component and an "ad hoc" component such that, once approved and for the purpose of the actuarial evaluations, the prefunded percentage increase will be assumed to be repeated on an annual basis for future years and the ad hoc increase will not be assumed to be repeated on an annual basis for future years. Future actuarial evaluations may determine that a modification to the assumed future prefunded increases will be necessary.
 - (d) Prefunded adjustments shall be based upon the monthly benefit being paid to a retirant on the month preceding the adjustment date, but excluding any temporary supplemental retirement allowances paid according to section 10.08(5). The average cost-of-living index, as determined by the Bureau of Labor Statistics of the U.S. Department of Labor relative to the United States as a whole, shall be consideration for such adjustments. However, in no event shall the percentage for the prefunded component of the annual cost-of-living adjustment exceed two (2) percent for any annual adjustment date, nor shall any retiree's benefit be reduced below any benefit being received on March 1, 2000.
 - (e) The ad hoc component of the cost-of-living adjustment may be granted only when surplus funds are available within the plan and only if all other provisions of this section are satisfied. This portion of the adjustment shall be based upon the monthly benefit being paid to a retirant on the month preceding the adjustment date but excluding any temporary supplemental and retirement allowances paid according to section 10.08(5). The sum of the prefunded and ad hoc portions of the adjustment shall not exceed either three (3) percent or the average cost-of-living index as determined by the Bureau of Labor Statistics of the U.S. Department of Labor, relative to the United States as a whole, whichever is the lesser amount.
 - (f) Notwithstanding the foregoing provisions of Subsection (10), paragraphs (a) through (e), members who retire before March 1, 2000 shall receive an annual cost of living adjustment of up to three (3) percent. Up to two (2) percent of this cost of living adjustment will be part of the fixed benefit structure of the plan. The remaining amount (up to one percent annually) will be granted pursuant to the "ad hoc" adjustment provisions of this subsection. Members who retire on or after March 1, 2000 will be eligible for a cost of living adjustment in accordance with the foregoing provisions of Subsection (10), paragraphs (a) through (e). Cost of living adjustments may be adjusted in accordance with Section 10.07(1).

(11) Maximum benefit limitation.

- (a) The maximum annual benefit payable under the system shall be limited to ninety-thousand dollars (\$90,000.00) subject to adjustment for increases in the cost of living in accordance with the following sentence. As of the first day of January of each calendar year, the maximum dollar limitation shall be adjusted automatically to an amount determined by the Commissioner of the Internal Revenue Service effective for that calendar year and shall apply only to that calendar year.

Retirees in payment status whose benefits were limited in any year by the application of this limitation shall have their benefits adjusted automatically in subsequent years to take into account the then current dollar limit.

- (b) In the event a member has earned a benefit, which during a previous limitation year has met all the requirements of Section 415 of the Internal Revenue Code ("Code"), and if the member's accrued benefit exceeds the limitation of Section 415 of the Code or the current limitation year, the member's maximum annual benefit, as described in subsection (a) of this section, shall not be less than the accrued benefit allowable under such previous limitation year.
- (c) If the retirement benefit is payable in a form other than a straight-life annuity or a joint-and-survivor annuity with the spouse as joint annuitant, the annual benefit limitation in any year shall be the actuarial equivalent (as defined in subsection (f) of this section) of the maximum annual benefit for that year (payable in the form of a straight-life annuity), as described above.
- (d) In the event payment of a retirement benefit under the system to a member commences prior to the date he (she) attains age sixty-two (62), the maximum annual benefit limitation shall be adjusted to be not more than the actuarial equivalent (as defined in subsection (f) of this section) of the then current dollar limit assumed to commence at age sixty-two (62) for the purpose of applying the benefit limit described in subsection (a) of this section. For a "qualified participant" as defined in Internal Revenue Code Section 415(b)(2)(H), this paragraph shall not apply.

For years subsequent to the payment commencement year, benefits payable shall be limited to the actuarial equivalent (as defined in subsection (f) of this section), determined as of the benefit commencement date, of the subsequent year's dollar limit assumed to commence at age sixty-two (62) (or the then current age if greater).

Adjustments described in this subsection (d) shall not reduce the maximum annual benefit below seventy-five thousand dollars (\$75,000.00), if the retirement benefit commences on or after attainment of age 55, or if the benefit commences before age 55, the actuarial equivalent of the \$75,000 limitation for age 55.

- (e) In the event payment of a retirement benefit under the system to a member commences after the date he (she) attains age 65, the maximum benefit limitation shall be adjusted to be not more than the actuarial equivalent (as defined in subsection (f) of this section) of the then current dollar limit commencing at age 65 for the purpose of applying the benefit limit described in subsection (a) of this section.

For years subsequent to the payment commencement year, benefits payable shall be limited to the actuarial equivalent, determined as of the benefit commencement date, of the subsequent year's dollar limit assumed to commence at age 65.

- (f) For the purpose of adjusting benefits in accordance with this section, actuarial equivalent shall be determined using the 1983 Group Annuity Mortality Table and an interest rate of five (5) percent for adjustments under subsections (c), (d) and (e) of this section. For adjustment under subsections (c), (d) and (e), no cost-of-living adjustment shall be taken into account before the year for which such adjustment first takes effect.

- (g) If a retirement benefit is payable to a member who has less than ten (10) years of participation in the system, the limitation described in subsection (a) of this section shall be multiplied by a fraction, the numerator of which is the member's years of participation and the denominator of which is ten (10).
- (h) If the city maintains a tax-qualified, defined contribution plan covering the same member, the total of such member's "defined contribution fraction" and his (her) "defined benefit fraction" (both as defined in Section 415 of the Code) at the end of any limitation year shall not exceed one (1.0). If as reduction in a member's benefits is required so that the sum of the two (2) fractions described above will not exceed one (1.0) the numerator of the "defined benefit fraction" shall be adjusted downward sufficiently to insure that the two-plan limitation described above is not exceeded. This limitation shall not be applicable to plan years beginning on and after January 1, 2000.
- (i) Adjustments described in subsections (b) and (d) of this section 10.12(11) shall not apply to (i) income received as a pension, annuity or similar allowance as a result of personal injuries or sickness or (ii) amounts received as a result of an employee's death by the employee's beneficiaries, survivors or estate.

(Ord. No. 99-30, § 1, 10-25-99; Ord. No. 00-05, § 5, 2-28-00; Ord. No. 09-07, § 1, 3-9-09; Ord. No. 10-33, § 6, 10-11-10)

Sec. 10.13. - Deferred retirement option program for police officers (DROP).

- (1) A deferred retirement option plan ("DROP") is hereby established for eligible police officers, effective October 1, 2004.
- (2) Eligibility and participation:
 - (a) A police officer who is actively employed by the city and reaches the normal service retirement date shall be eligible to participate in the DROP.
 - (b) A member's election to participate in the DROP shall be irrevocable
 - (c) An eligible member may participate in the DROP for a maximum of sixty (60) months from the date the DROP plan takes effect (if the member is eligible at that time), or for a maximum of sixty (60) months from the date the member reaches his or her earliest normal service retirement date, whichever occurs first. An eligible member may elect to participate in the DROP with thirty (30) days advance written notice to the city. An eligible member may defer entry into DROP beyond the date the member is first eligible to enter the DROP. If a member defers entry into the DROP, the maximum DROP period will be reduced for each month of deferred entry. In no event will the maximum DROP period be extended beyond sixty (60) months from the date the member is first eligible to participate. Example: A member is eligible to participate in DROP for a maximum sixty (60) months from the date the member is first eligible to participate; however, if the member defers entry into the DROP for twelve months after reaching the earliest normal service retirement age (or if the member has already reached the earliest normal service retirement age at the time the DROP takes effect, twelve months after that date), the member will be able to participate in the DROP for a maximum of forty-eight (48) months. Notwithstanding any provision to the contrary, any member who completes twenty-five (25) years of service before age fifty-two (52) may defer entry into the DROP until age 52, with no reduction in the DROP period. A member who elects to participate in the DROP can elect to terminate DROP participation and city employment sooner than the maximum DROP period, with thirty (30) days advance written notice to the city.
- (3) DROP plan features:
 - (a) An eligible member who elects to participate in the DROP will be considered to have retired for purposes of the pension plan. The member's monthly retirement benefit, determined in accordance with the plan based on years of creditable service and average final compensation at the time the member enters the DROP, will be paid into his or her DROP account every month

during the DROP period. No member or city contributions shall be required after a member enters the DROP, and the member will not accrue any additional creditable service or any additional benefits under the pension plan after entering the DROP.

- (b) A member who elects to participate in the DROP shall not be eligible for disability or preretirement death benefits under the pension plan.
- (c) As a condition of participating in the DROP, the member must agree to resign from city employment at the conclusion of the DROP period and must submit an irrevocable letter of resignation prior to entering the DROP.
- (d) Participation in the DROP is not a guarantee of employment, and DROP participants will be subject to the same employment standards and policies that are applicable to employees who are not DROP participants.
- (e) The member's DROP account will earn interest at an annual rate of six and one-half percent (6.5%) compounded monthly.
- (f) Within thirty (30) days following a DROP participant's termination of city employment or death, the member's entire DROP account balance shall be distributed to the member [or in the event of the member's death, to the member's designated beneficiary or estate in accordance with paragraph (g) below] in a cash lump sum, unless the member elects to have all or any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the member in a direct rollover. Any such direct rollover will be accomplished in accordance with section 10.09 (4) of the pension plan.
- (g) If a DROP participant dies before his or her DROP account is distributed, the participant's designated beneficiary shall have the same rights as the participant with respect to the distribution of the DROP account. If the member has not designated a beneficiary, the DROP account balance shall be paid to the member's estate.
- (h) The pension board shall adopt any necessary rules for administering the DROP.

(Ord. No. 04-19, § 3, 10-25-04; Ord. No. 06-02, § 5, 1-23-06)

Sec. 10.14. - Rollovers or transfers into the fund.

Effective October 1, 2004, the fund will accept member rollover cash contributions and/or direct cash rollovers of distributions for the purchase of creditable service pursuant to Section 10.02(8), as follows:

- (a) Direct transfers or member rollover contributions from other plans. The plan will accept either a direct transfer or an eligible rollover distribution from a qualified plan described in section 401(a) of the Code, from an annuity contract described in section 403(b) of the Code, or from an eligible plan described in section 457(b) of the Code, which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state, as permitted under the Internal Revenue Code.
- (b) Member rollover contributions from 401(a) plans and IRAs. The plan will accept a member rollover contribution of the portion of a distribution from a qualified plan described in section 401(a) of the Code, or from an individual retirement account or annuity described in section 408(a) or 408(b) of the Code, that is eligible to be rolled over and would otherwise be includible in the member's gross income.

(Ord. No. 04-19, § 4, 10-25-04)

Sec. 10.15. - Maximum pension benefits.

- (1) *Basic limitation.* Notwithstanding any other provisions of this system to the contrary, the member contributions paid to, and retirement benefits paid from, the system shall be limited to such extent as may be necessary to conform to the requirements of Code Section 415 for a qualified retirement plan. Before January 1, 1995, a plan member may not receive an annual benefit that exceeds the

limits specified in Code Section 415(b), subject to the applicable adjustments in that section. On and after January 1, 1995, a plan member may not receive an annual benefit that exceeds the dollar amount specified in Code Section 415(b)(1)(A) (\$160,000), subject to the applicable adjustments in Code Section 415(b) and subject to any additional limits that may be specified in this System. For purposes of this section, "limitation year" shall be the calendar year.

- (2) *Adjustments to basic limitation for form of benefit.* If the form of benefit without regard to any benefit increase feature is not a straight life annuity, then the Code Section 415(b) limit applicable at the annuity starting date is reduced to an actuarially equivalent amount (determined using the assumptions specified in Treasury Regulation Section 1.415(b)-1(c)(2)(ii) that takes into account the death benefits under the form of benefit.
- (3) *Benefits not taken into account.* For purposes of this section, the following benefits shall not be taken into account in applying these limits:
 - (a) Any ancillary benefit which is not directly related to retirement income benefits;
 - (b) Any other benefit not required under §415(b)(2) of the Code and Regulations thereunder to be taken into account for purposes of the limitation of Code Section 415(b)(1).
- (4) *COLA effect.* Effective on and after January 1, 2003, for purposes of applying the limits under Code Section 415(b) (the "Limit"), the following will apply:
 - (a) A member's applicable limit will be applied to the member's annual benefit in the member's first calendar year payments without regard to any automatic cost of living adjustments;
 - (b) Thereafter, in any subsequent calendar year, a member's annual benefit, including any automatic cost of living increases, shall be tested under the then applicable benefit limit including any adjustment to the Code Section 415(b)(1)(A) dollar limit under Code Section 415(d), and the regulations thereunder; but
 - (c) In no event shall a member's benefit payable under the system in any calendar year be greater than the limit applicable at the annuity starting date, as increased in subsequent years pursuant to Code Section 415(d) and the regulations thereunder.

Unless otherwise specified in the system, for purposes of applying the limits under Code Section 415(b), a Member's applicable limit will be applied taking into consideration cost of living increases as required by Section 415(b) of the Code and applicable Treasury Regulations.

- (5) *Other adjustments in limitations.*
 - (a) In the event the member's retirement benefits become payable before age sixty-two (62), the limit prescribed by this section shall be reduced in accordance with regulations issued by the Secretary of the Treasury pursuant to the provisions of Code Section 415(b) of the Code, so that such limit (as so reduced) equals an annual straight life benefit (when such retirement income benefit begins) which is equivalent to a one hundred sixty thousand dollar (\$160,000) annual benefit beginning at age sixty-two (62).
 - (b) In the event the member's benefit is based on at least fifteen (15) years of credited service as a full-time employee of the fire or police department of the City, the adjustments provided for in (e)(1) above shall not apply.
 - (c) The reductions provided for in (e)(1) above shall not be applicable to disability benefits pursuant to section 66-218, or pre-retirement death benefits paid pursuant to section 66-217.
 - (d) In the event the member's retirement benefit becomes payable after age sixty-five (65), for purposes of determining whether this benefit meets the limit set forth in subsection (a) herein, such benefit shall be adjusted so that it is actuarially equivalent to the benefit beginning at age sixty-five (65). This adjustment shall be made in accordance with regulations promulgated by the Secretary of the Treasury or his delegate.

- (6) *Less than ten (10) years of service.* The maximum retirement benefits payable under this section to any member who has completed less than ten (10) years of credited service with the City shall be the amount determined under subsection (a) of this section multiplied by a fraction, the numerator of which is the number of the member's years of credited service and the denominator of which is ten (10). The reduction provided by this subsection cannot reduce the maximum benefit below 10%. The reduction provided for in this subsection shall not be applicable to disability benefits paid pursuant to section 66-218, or pre-retirement death benefits paid pursuant to section 66-217.
- (7) *Participation in other defined benefit plans.* The limit of this section with respect to any member who at any time has been a member in any other defined benefit plan as defined in Code Section 414(j) maintained by the City shall apply as if the total benefits payable under all City defined benefit plans in which the member has been a member were payable from one plan.
- (8) *Ten thousand dollar (\$10,000) limit.* Notwithstanding the foregoing, the retirement benefit payable with respect to a member shall be deemed not to exceed the limit set forth in this section if the benefits payable, with respect to such member under this system and under all other qualified defined benefit pension plans to which the City contributes, do not exceed ten thousand dollars (\$10,000) for the applicable plan year and for any prior plan year and the City has not any time maintained a qualified defined contribution plan in which the member participated.
- (9) *Reduction of benefits.* Reduction of benefits and/or contributions to all plans, where required, shall be accomplished by first reducing the member's benefit under any defined benefit plans in which member participated, such reduction to be made first with respect to the plan in which member most recently accrued benefits and thereafter in such priority as shall be determined by the board and the plan administrator of such other plans, and next, by reducing or allocating excess forfeitures to defined contribution plans in which the member participated, such reduction to be made first with respect to the plan in which member most recently accrued benefits and thereafter in such priority as shall be established by the board and the plan administrator for such other plans provided, however, that necessary reductions may be made in a different manner and priority pursuant to the agreement of the board and the plan administrator of all other plans covering such member.
- (10) *Service credit purchase limits.*
- (a) Effective for permissive service credit contributions made in limitation years beginning after December 31, 1997, if a member makes one or more contributions to purchase permissive service credit under the system, as allowed in sections 66-227 and 66-228, then the requirements of this section will be treated as met only if:
1. The requirements of Code Section 415(b) are met, determined by treating the accrued benefit derived from all such contributions as an annual benefit for purposes of Code Section 415(b); or
 2. The requirements of Code Section 415(c) are met, determined by treating all such contributions as annual additions for purposes of Code Section 415(c).
 3. For purposes of applying subparagraph (j)(1)a., the System will not fail to meet the reduced limit under Code Section 415(b)(2)(C) solely by reason of this subparagraph c., and for purposes of applying subparagraph (j)(1)b. the System will not fail to meet the percentage limitation under Section 415(c)(1)(B) of the Code solely by reason of this subparagraph c.
- (b) For purposes of this subsection the term "permissive service credit" means service credit—
1. Recognized by the system for purposes of calculating a member's benefit under the plan.
 2. Which such member has not received under the plan; and

3. Which such member may receive only by making a voluntary additional contribution, in an amount determined under the system, which does not exceed the amount necessary to fund the benefit attributable to such service credit.

Effective for permissive service credit contributions made in limitation years beginning after December 31, 1997, such term may, if otherwise provided by the system, include service credit for periods for which there is no performance of service, and, notwithstanding clause (j)(2)b., may include service credited in order to provide an increased benefit for service credit which a member is receiving under the system.

- (c) For purposes of applying the limits in this subsection (j), only and for no other purpose, the definition of compensation where applicable will be compensation actually paid or made available during a calendar year, except as noted below and as permitted by Treasury Regulations Section 1.415(c)-2, or successor regulations. Unless another definition of compensation that is permitted by Treasury Regulations Section 1.415(c)-2, or successor regulation, is specified by the system, compensation will be defined as wages within the meaning of Code Section 3401(a) and all other payments of compensation to an employee by an employer for which the employer is required to furnish the employee a written statement under Code Sections 6041(d), 6051(a)(3) and 6052 and will be determined without regard to any rules under Code Section 3401(a) that limit the remuneration included in wages based on the nature or location of the employment or the services performed (such as the exception for agricultural labor in Code Section 3401(a)(2)).
 1. However, for calendar years beginning after December 31, 1997, compensation will also include amounts that would otherwise be included in compensation but for an election under Code Sections 125(a), 402(e)(3), 402(h)(1)(B), 402(k), or 457(b). For calendar years beginning after December 31, 2000, compensation will also include any elective amounts that are not includible in the gross income of the employee by reason of Code Section 132(f)(4).
 2. For limitation years beginning on and after January 1, 2007, compensation for the calendar year will also include compensation paid by the later of 2½ months after an employee's severance from employment or the end of the calendar year that includes the date of the employee's severance from employment if:
 - a. The payment is regular compensation for services during the employee's regular working hours, or compensation for services outside the employee's regular working hours (such as overtime or shift differential), commissions, bonuses or other similar payments, and, absent a severance from employment, the payments would have been paid to the employee which the employee continued in employment with the employer; or
 - b. The payment is for unused accrued bona fide sick, vacation or other leave that the employee would have been able to use if employment had continued.
 3. Back pay, within the meaning of Treasury Regulations Section 1.415(c)-2(g)(8), shall be treated as compensation for the limitation year to which the back pay relates to the extent the back pay represents wages and compensation that would otherwise be included under this definition.
- (d) Notwithstanding any other provision of law to the contrary, the board may modify a request by a member to make a contribution to the system if the amount of the contribution would exceed the limits provided in Code Section 415 by using the following methods:
 1. If the law requires a lump sum payment for the purchase of service credit, the board may establish a periodic payment deduction plan for the member to avoid a contribution in excess of the limits under Code Sections 415(c) or 415(n).

2. If payment pursuant to subparagraph (j)(4)a. will not avoid a contribution in excess of the limits imposed by Code Section 415(c), the board may either reduce the member's contribution to an amount within the limits of that section or refuse the member's contribution

(11) *Additional limitation on pension benefits.* Notwithstanding anything herein to the contrary.

- (a) The normal retirement benefit or pension payable to a retiree who becomes a member of the system and who has not previously participated in such system, on or after January 1, 1980, shall not exceed one hundred percent (100%) of his average final compensation. However, nothing contained in this section shall apply to supplemental retirement benefits or to pension increases attributable to cost-of-living increases or adjustments.
- (b) No member of the system shall be allowed to receive a retirement benefit or pension which is in part or in whole based upon any service with respect to which the member is already receiving, or will receive in the future, a retirement benefit or pension from a different employer's retirement system or plan. This restriction does not apply to social security benefits or federal benefits under Chapter 67, Title 10, U.S. Code.

(Ord. No. 10-33, § 7, 10-11-10)

Sec. 10.16. - Share plan.

In accordance with F.S. § 185.35(6), a defined contribution plan component ("share plan") is hereby established for police officers as part of this System. The share plan will be funded exclusively with F.S. ch. 185 premium tax revenues in accordance with the default rules in F.S. § 185.35(a)–(d) as follows: all annual premium tax revenues received up to the amount collected in 2002 and distributed to the city in 2003 (\$249,401) shall be used to reduce city pension contributions. Annual premium tax revenues received in excess of \$249,401 shall be split 50-50, with one-half of the excess used to fund the share plan, and one-half of the excess used to reduce city pension contributions. The share plan shall not become operative until annual premium tax revenues exceed \$249,401 and the details of the share plan are agreed to by the city and union.

(Ord. No. 17-13, § 1, 7-10-17)

ARTICLE X.5. - CIVIL SERVICE

Sec. 10.5.01. - Civil service employees.

The members of the police and fire departments of the City of St. Augustine, Florida, excluding parking enforcement specialists and employees whose duties are exclusively clerical, communications operations and/or fire prevention and investigations, are constituted civil service employees and shall be employed, retained, governed, directed and discharged as hereinafter provided.

(Ord. No. 87-11, § 1, 3-23-87)

Sec. 10.5.02. - Definitions.

For the purposes of this chapter [article] "city" shall be construed to mean the City of St. Augustine, Florida. The "governing authority" shall be construed to mean the city commission of the city. "Chief of police" shall be construed to mean the officer in command of the police department, and commonly known and designated as chief of police. "Chief of fire department" shall be construed to mean the officer in command of the fire department, and commonly known and designated as chief of fire department. "Seniority" shall be construed to mean the length of service on the police department or fire department of the city.

(Ord. No. 87-11, § 2, 3-23-87)

Sec. 10.5.03. - Employment included in provisions of this chapter [article].

All persons regularly employed by the city as police officers, police corporals, police sergeants, police lieutenants, police chief, firefighters, fire lieutenants, fire captains, fire chief, and such other police or fire officer ranks that may, from time to time, be authorized by the governing authority, shall be construed to come within the provisions of this chapter [article], but this chapter [article] shall not include parking enforcement specialists, or employees whose duties are exclusively clerical, communications operations and/or fire prevention and investigations, or any officer or person employed for temporary duty only.

Employees coming within the provisions of this chapter [article] shall be employed and retained in employment and advanced to any higher grade on merit and fitness only, and the merit and fitness of any applicant for said departments, or for advancement therein, shall be determined by competitive examination, as hereinafter provided.

(Ord. No. 87-11, § 3, 3-23-87)

Sec. 10.5.04. - Civil service board created.

A civil service board for the city is hereby created. Said board shall be composed of five (5) members, three (3) members of said board to be persons of different vocations, not employed by the city in any other capacity, official or otherwise, and shall be appointed by the city commission. The board shall, however, in the first instance, consist of members of the civil service board of the City of St. Augustine created under Laws of Fla. (1935) ch. 17166, who shall serve until such time as their terms would have expired under the provisions of such chapter. Thereafter in each instance members shall be appointed for a term of four (4) years. The fourth member of said board shall be a member of the police department of the city, and the fifth member of said board shall be a member of the fire department of the city, who shall be elected to membership in said board by the vote of the regular employed members of the police and fire departments respectively. The term of said fourth and fifth members shall be for one year. The members of said board, other than said fourth and fifth members, shall appoint the judges and clerks for the election of said fourth and fifth members. The time for said election shall be set by the three (3) members first appointed to said board, and thereafter said election shall be held on that date each year, or such other date as may be designated by the governing authority. The votes shall be consolidated on the following day after said election. The candidate receiving the greatest number of votes shall be declared elected. Immediately after appointments and election have been made and held as above provided, said board shall organize and elect one of its members chief examiner, who shall act as secretary to said board. The board may appoint such other assistants to the secretary as may be necessary. All three (3) members of said civil service board first appointed shall serve without recompense, unless otherwise provided by the governing authority. The chief of police and chief of fire department shall be ex officio members of said board and shall have a voice in any proceedings, but no vote. The fourth member and the chief of police, and the fifth member and the chief of fire department shall serve on said board without compensation, other than their regular pay as officers.

(Ord. No. 87-11, § 4, 3-23-87)

Sec. 10.5.05. - Rules and regulations; investigations concerning enforcement; annual report.

The civil service board shall adopt, enact, and amend a code of rules and regulations. The code shall cover the regulations for the conduct and direction of the members of the police and fire departments and shall prescribe their discipline and control. Said code shall contain rules and regulations for the appointment, employment and discharge of all civil service employees construed to come within the provisions of this chapter [article], excluding parking enforcement specialists and employees whose duties are exclusively clerical, communications operations and/or fire prevention and investigations, in the police and fire departments of the city, based on merit, efficiency, character and industry. Said code shall have the force and effect of a law on employees of said police and fire departments. Said board shall make investigations concerning the enforcement and effect of this chapter [article] and of its adopted code. It shall make annual reports to the city commission.

(Ord. No. 87-11, § 5, 3-23-87)

Sec. 10.5.06. - Examinations, eligible lists, grades, certification, vacancies and promotions.

The civil service board or its examiner, subject to its approval, shall provide examinations and maintain lists of eligibles to appointment in said police and fire departments. Said board shall certify a list of the eligibles in each grade as such grades may, from time to time, be established by the governing authority. Said lists shall be certified to the chiefs of said departments at such time as may be determined by said board, or upon request of the chief of police or the chief of the fire department, and shall be available for examination by any member of said departments at any time. Appointments, except as to the positions of chief of police and chief of fire department, who are appointed by the city manager, shall be made to fill vacancies only from this list of eligibles. Members of said departments shall be moved from any grade to a higher grade only after passing an examination prescribed by the board as aforesaid, with the necessary qualifications prescribed by the said board, and the entry of their names on the eligible list for said grade.

(Ord. No. 87-11, § 6, 3-23-87)

Sec. 10.5.07. - Suspension of examination and requirements for filling vacancy when competition is impracticable.

In case of a vacancy in a position in said police and fire departments where peculiar and exceptional qualifications of a scientific, managerial, professional or educational character are required, and upon satisfactory evidence that for specified reasons, competition in such special case is impracticable, and that the position can best be filled by a selection of some designated person of high qualities, the civil service board, on a vote of a majority of its members, and the written assent of the chief of police and chief of fire department, may suspend the provisions of the chapter [article] requiring competition in such place, and all such cases of suspension of the examination shall be recorded by the board, with the reasons for said suspension and shall be open to the public. At the time of the appointment the rank of said appointee shall be fixed by the board. Such an appointee, being appointed to fill a vacancy, may not of necessity receive the same rank as the former incumbent.

(Ord. No. 87-11, § 7, 3-23-87)

Sec. 10.5.08. - Command of police and fire departments.

The chief of police and fire departments of the city shall be in command of said police and fire departments and subject to the provisions of the City Charter relating to the duties and responsibilities of the city manager. When the city commission of the city shall determine that an emergency exists, caused by riot, rebellion or public calamity, the mayor may be directed to take charge of said police department and command the same during the existence of said emergency only.

(Ord. No. 87-11, § 8, 3-23-87)

Sec. 10.5.09. - City commission fixes pay and controls number of employees in each grade; seniority list.

The city commission shall fix the pay of all members of said police and fire departments, provided that the pay range of all members within a grade shall be the same and the beginning pay of a higher grade shall not be less than the beginning pay of the next lower grade.

The city commission shall fix the number of members in each particular grade and may increase or reduce the number of any grade, or may abolish that grade. In the event of a reduction in the number of members in any grade, the members shall be retained in that grade according to seniority, and those members thus being forced back to a lower grade or class, will thereafter receive the pay of said lower grade or class, and in the event the grade or class is again increased, shall be the first to succeed to said old grade or class according to seniority, provided he remains in said lower grade or class for a period not exceeding one year, without further examination or probationary period, and in the event a reduction in said force or any grade thereof causes a member of the lowest grade of said force to go into inactive duty, said member or members on inactive duty shall not receive any pay, but said inactive member shall not lose his seniority, provided he remains inactive for a period not exceeding one year, and enters on said active duty within ten (10) days after notice has been given him by the secretary of said civil service board that a position is open.

After the formation of said board a seniority list shall be certified of all members of the police and fire departments and each member shall in writing assent or dissent to his seniority rating. In the event a member dissents, a hearing shall be held by said board and the seniority determined, and the finding of said board shall be final.

(Ord. No. 87-11, § 9, 3-23-87)

Sec. 10.5.10. - Discharge of permanent employee.

The discharge of a permanent employee other than during a probationary period shall not become effective until the chief of police or the chief of fire department, as the case may be, shall have first served upon such employee of the department a written notice of discharge which shall contain one or more reasons or grounds for the discharge, together with such specifications of facts as will enable said employee to make an explanation and place him fairly upon his defense, giving such employee an opportunity to make an explanation, and file it with the civil service board together with a copy of such notice of discharge and explanation, if any, made by the employee.

(Ord. No. 87-11, § 10, 3-23-87)

Sec. 10.5.11. - Hearing on appeal of discharged employee.

A discharged employee may appeal to the civil service board for a hearing within ten (10) calendar days from the time he was served with notice of discharge as shown by such notice. The board shall hear the appeal within twenty (20) days from the date that such appeal shall have been so filed with the board. Written notice shall be given to the person so removed and to the chief of the proper department of the time and place of hearing the appeal, which hearing shall be open to the public.

(Ord. No. 87-11, § 11, 3-23-87)

Sec. 10.5.12. - Proceedings of hearing.

The board shall hear the evidence upon the charges and specifications as filed with it by the chief of police or the chief of fire department. No material amendment of, or addition to, said charges or specifications will be considered by the board.

The proceedings shall be as informal as is compatible with justice. The order of proof shall be as follows: The chief of police or chief of fire department shall present his evidence in support of the charges. The appellant shall then produce such evidence as he may wish to offer in his defense. The parties in interest may then offer rebuttal evidence. The board shall hear arguments. The admission of the evidence shall be governed by the rules applied by the court in civil cases. The board shall have the power to subpoena and require the attendance of witnesses and the production of pertinent documents, and to administer oaths. The chief of police and chief of fire department may be represented by other counsel. The appellant may also be represented by counsel, and the board shall, after due consideration, render its judgment affirming, disaffirming or modifying the action of the said departments.

(Ord. No. 87-11, § 12, 3-23-87)

Sec. 10.5.13. - Failure to appear.

If the employee whose appeal is to be heard as set out in section 11 [section 10.5.11] shall fail to appear, for no good reason, at the time fixed for the hearing, the board shall hear the evidence and render judgment thereon. If the chief of the proper department shall fail to appear at the time fixed for the hearing, and if no evidence be offered in support of his charge or charges, the board may render judgment as by default or may hear evidence as offered by the removed employee and render judgment thereon, and the board shall forthwith notify the department chief and the removed employee of its judgment.

(Ord. No. 87-11, § 13, 3-23-87)

Sec. 10.5.14. - Civil service board may initiate investigation and prefer charges.

The civil service board shall also have the initiative in any proceedings and may, by a majority vote, call before it any member of said police or fire departments for investigation, and, if it finds sufficient grounds to do so, may direct its secretary to prefer charges against said member, in which event the secretary may be substituted for the chief of police or chief of fire department in said charges and hearing, and in such event the secretary shall not vote in said proceedings.

(Ord. No. 87-11, § 14, 3-23-87)

Sec. 10.5.15. - Suspension of permanent employee; right to appeal.

Any chief of police or chief of fire department may suspend a permanent employee without fee for a reasonable period not to exceed thirty (30) days, for purposes of discipline, provided, however, that said employee shall not be required to work more than five (5) days of any suspension without pay. Successive suspensions shall not be allowed. In all cases of suspension, demotion, or lay off, the chief of police and chief of fire department shall furnish such employee with a copy of a notice thereof specifying his reasons for the same and give such employee a reasonable time in which to make and file an explanation. Any employee suspended or laid off shall have the right of appeal to the civil service board in the manner set forth in section 11 [section 10.5.11] with reference to an appeal in case of dismissal. Whenever the dismissal or suspension of any employee is disapproved by the board and a reinstatement ordered, the employee involved may, as determined by the board, receive the pay he lost because of such suspension, provided, however, that any employee charged with a felony or crime involving moral turpitude may be suspended by the chief of the department of which he is a member for the period during which any such charges are pending against such employee, anything contained herein notwithstanding.

(Ord. No. 87-11, § 15, 3-23-87)

Sec. 10.5.16. - Disqualified for further examinations.

Any permanent employee who is dismissed for misconduct or delinquency or who resigns while charges are pending shall be disqualified from taking any civil service examination thereafter.

(Ord. No. 87-11, § 16, 3-23-87)

Sec. 10.5.17. - Rank, grade and seniority held at time of adoption of ordinance [article] retained.

Members of the police and fire department, respectively, shall retain the rank and grade and the seniority they hold at the time of the effective date of this ordinance [article]. That is, it shall not be necessary for them to be reappointed to the grade they hold at that time, nor to go through any probationary period to hold that particular grade. In the event, however, that any member of the police or fire departments shall become eligible for a position of a higher grade, then this chapter [article] shall apply in all its terms and provisions. Nothing in this section shall prevent the city commission from reducing the number of men in any grade, as hereinbefore provided.

(Ord. No. 87-11, § 17, 3-23-87)

ARTICLE XI. – BONDS

Sec. 11.01. - Limitations on power to issue bonds; election.

Editor's note— Section 11.01 was derived from Laws of Fla. (1925) ch. 11148, § 146; Laws of Fla. (1929) ch. 14375, § 62. It has been deleted as a limitation on power that was repealed by F.S. ch. 166. F.S. § 166.101 et seq. provides full authority to issue bonds.

Sec. 11.02. - Refunding bonds.

Editor's note— Section 11.02 was derived from Laws of Fla. (1925) ch. 11148, § 146; Laws of Fla. (1929) ch. 14375, § 62. It has been deleted as a limitation on power that was repealed by F.S. ch. 166. F.S. § 166.101 et seq. provides full authority to issue bonds.

Sec. 11.03. - Bonds to be signed and attested; coupons; registrations; full faith and credit of city pledged; when bonds mature.

Editor's note— Section 11.03 was derived from Laws of Fla. (1925) ch. 11148, § 147; Laws of Fla. (1929) ch. 14375, § 63. It has been deleted as a limitation on power that was repealed by F.S. ch. 166. F.S. § 166.101 et seq. provides full authority to issue bonds.

Sec. 11.04. - Sale of bonds.

Editor's note— Section 11.04 was derived from Laws of Fla. (1925) ch. 11148, § 147; Laws of Fla. (1929) ch. 14375, § 63. It has been deleted as a limitation on power that was repealed by F.S. ch. 166. F.S. § 166.101 et seq. provides full authority to issue bonds.

Sec. 11.05. - Credit pledged to pay bonds; property tax levy for payment of bonds.

Editor's note— Section 11.05 was derived from Laws of Fla. (1925) ch. 11148, § 150; Laws of Fla. (1929) ch. 14375, § 66. It has been deleted as a limitation on power that was repealed by F.S. ch. 166. F.S. § 166.101 et seq. provides full authority to issue bonds.

Sec. 11.06. - Board of bond trustees—Established; appointment; oath; bond required of members; powers generally; accounts; secretary; terms.

Editor's note— Section 11.06 was derived from Laws of Fla. (1925) ch. 11148, § 80; Laws of Fla. (1929) ch. 14375, § 14. It has been deleted as obsolete and not needed. See F.S. §§ 166.101, 166.122.

Sec. 11.07. - Same—Duties generally.

Editor's note— Section 11.07 was derived from Laws of Fla. (1925) ch. 11148, § 149; Laws of Fla. (1929) ch. 14375, § 65. It has been deleted as a limitation on power that was repealed by F.S. ch. 166. F.S. § 166.101 et seq. provides full authority to issue bonds. It has been deleted as obsolete or not needed. See F.S. §§ 166.101, 166.122.

Sec. 11.08. - Retirement of bonds.

Editor's note— Section 11.08 was derived from Laws of Fla. (1925) ch. 11148, § 149; Laws of Fla. (1929) ch. 14375, § 65. It has been deleted as a limitation on power that was repealed by F.S. ch. 166. F.S. § 166.101 et seq. provides full authority to issue bonds.

ARTICLE XII. - PUBLIC IMPROVEMENTS; SPECIAL ASSESSMENTS

Sec. 12.01. - Modification of improvement contracts.

Editor's note— Section 12.01 was derived from Laws of Fla. (1925) ch. 11148, § 155. It assumed ordinance status pursuant to F.S. ch. 166 and has been transferred into the Code of Ordinances.

Sec. 12.02. - Aggregate of contracts not to exceed estimates.

Editor's note— Section 12.02 was derived from Laws of Fla. (1925) ch. 11148, § 156. It assumed ordinance status pursuant to F.S. ch. 166 and has been transferred into the Code of Ordinances.

Sec. 12.03. - Improper contracts void.

Editor's note— Section 12.03 was derived from Laws of Fla. (1925) ch. 11148, § 157. It assumed ordinance status pursuant to F.S. ch. 166 and has been transferred into the Code of Ordinances.

Sec. 12.04. - Commission may declare improvements necessary; service of notice; return; publication.

Editor's note— Section 12.04 was derived from Laws of Fla. (1925) ch. 11148, § 158. It assumed ordinance status pursuant to F.S. ch. 166 and has been transferred into the Code of Ordinances.

Sec. 12.05. - Procedure when assessments are not paid within specified time.

Editor's note— Section 12.05 was derived from Laws of Fla. (1925) ch. 11148, § 159. It assumed ordinance status pursuant to F.S. ch. 166 and has been transferred into the Code of Ordinances.

Sec. 12.06. - Borrowing money in anticipation of unpaid special assessments.

Editor's note— Section 12.06 was derived from Laws of Fla. (1925) ch. 11148, § 160. It has been deleted as a limitation on power that was repealed by F.S. ch. 166.

Sec. 12.07. - Weeds and rubbish; assessments for removal.

The city commission shall have power to provide by ordinance for assessing against the abutting property the cost of removing from sidewalks all accumulations of weeds or rubbish, and for assessing against property the cost of cutting and removing therefrom of noxious weeds or rubbish, including debris resulting from fires or the demolition of buildings or other structures.

(Laws of Fla. (1925) ch. 11148, § 161)

Sec. 12.08. - Assessments for public improvements not to be made until bids for labor and costs are received.

Editor's note— Section 12.08 was derived from Laws of Fla. (1925) ch. 11148, § 152. It assumed ordinance status pursuant to F.S. ch. 166 and has been transferred into the Code of Ordinances.

Sec. 12.09. - Authority to levy special assessments for local improvements.

Editor's note— Section 12.09 was derived from Laws of Fla. (1925) ch. 11148, § 132; Laws of Fla. (1929) ch. 14375, § 48. It assumed ordinance status pursuant to F.S. ch. 166 and has been transferred into the Code of Ordinances.

Sec. 12.10. - Assessments to be in proportion to property benefited.

Editor's note— Section 12.10 was derived from Laws of Fla. (1925) ch. 11148, § 132; Laws of Fla. (1929) ch. 14375, § 48. It assumed ordinance status pursuant to F.S. ch. 166 and has been transferred into the Code of Ordinances.

Sec. 12.11. - Resolution—Required; contents.

Editor's note— Section 12.11 was derived from Laws of Fla. (1925) ch. 11148, § 133; Laws of Fla. (1929) ch. 14375, § 49. It assumed ordinance status pursuant to F.S. ch. 166 and has been transferred into the Code of Ordinances.

Sec. 12.12. - Same—Plans and specifications.

Editor's note— Section 12.12 was derived from Laws of Fla. (1925) ch. 11148, § 133; Laws of Fla. (1929) ch. 14375, § 49. It assumed ordinance status pursuant to F.S. ch. 166 and has been transferred into the Code of Ordinances.

Sec. 12.13. - Same—Publication.

Editor's note— Section 12.13 was derived from Laws of Fla. (1925) ch. 11148, § 133; Laws of Fla. (1929) ch. 14375, § 49. It assumed ordinance status pursuant to F.S. ch. 166 and has been transferred into the Code of Ordinances.

Sec. 12.14. - Tax assessment roll; procedure; contents; apportionment based on benefits.

Editor's note— Section 12.14 was derived from Laws of Fla. (1925) ch. 11148, § 134; Laws of Fla. (1929) ch. 14375, § 50; Laws of Fla. (1937) ch. 18877, § 15; Ord. No. 84-12, § 8, 4-23-84. It assumed ordinance status pursuant to F.S. ch. 166 and has been transferred into the Code of Ordinances.

Sec. 12.15. - Hearings; protests; modification of proposal; correction of assessment roll; ordinance required; contents; notice.

Editor's note— Section 12.15 was derived from Laws of Fla. (1925) ch. 11148, § 135; Laws of Fla. (1929) ch. 14375, § 51; Laws of Fla. (1937) ch. 18877, § 16. It assumed ordinance status pursuant to F.S. ch. 166 and has been transferred into the Code of Ordinances.

Sec. 12.16. - Action of commission upon hearing of protests.

Editor's note— Section 12.16 was derived from Laws of Fla. (1925) ch. 11148, § 136; Laws of Fla. (1929) ch. 14375, § 52; Laws of Fla. (1937) ch. 18877, § 17. It assumed ordinance status pursuant to F.S. ch. 166 and has been transferred into the Code of Ordinances.

Sec. 12.17. - Clerk to transmit confirmed and certified roll to chief accountant.

Editor's note— Section 12.17 was derived from Laws of Fla. (1925) ch. 11148, § 136; Laws of Fla. (1929) ch. 14375, § 52; Laws of Fla. (1937) ch. 18877, § 17; Ord. No. 84-12, § 8, 4-23-84. It assumed ordinance status pursuant to F.S. ch. 166 and has been transferred into the Code of Ordinances.

Sec. 12.18. - Claims for damages because of improvements.

Editor's note— Section 12.18 was derived from Laws of Fla. (1925) ch. 11148, § 137; Laws of Fla. (1929) ch. 14375, § 53. It assumed ordinance status pursuant to F.S. ch. 166 and has been transferred into the Code of Ordinances.

Sec. 12.19. - Special assessments collected as ad valorem taxes; payment in installments; interest; lien against property assessed.

Editor's note— Section 12.19 was derived from Laws of Fla. (1925) ch. 11148, § 138; Laws of Fla. (1929) ch. 14375, § 54; Laws of Fla. (1937) ch. 18877, § 18; Ord. No. 74-16, § 1, 7-8-74. It assumed ordinance status pursuant to F.S. ch. 166 and has been transferred into the Code of Ordinances.

Sec. 12.20. - Procedure for settlement of claims; judicial determination; notice to city by claimant.

Editor's note— Section 12.20 was derived from Laws of Fla. (1925) ch. 11148, § 139; Laws of Fla. (1929) ch. 14375, § 55. It assumed ordinance status pursuant to F.S. ch. 166 and has been transferred into the Code of Ordinances.

Sec. 12.21. - Duty of city manager upon adoption of ordinance; payments by city for improvement.

Editor's note— Section 12.21 was derived from Laws of Fla. (1925) ch. 11148, § 140; Laws of Fla. (1929) ch. 14375, § 56. It assumed ordinance status pursuant to F.S. ch. 166 and has been transferred into the Code of Ordinances.

Sec. 12.22. - Rebates; supplemental assessments.

Editor's note— Section 12.22 was derived from Laws of Fla. (1925) ch. 11148, § 141; Laws of Fla. (1929) ch. 14375, § 57; Laws of Fla. (1937) ch. 18877, § 19. It assumed ordinance status pursuant to F.S. ch. 166 and has been transferred into the Code of Ordinances.

Sec. 12.23. - Reassessments.

Editor's note— Section 12.23 was derived from Laws of Fla. (1925) ch. 11148, § 142; Laws of Fla. (1929) ch. 14375, § 58. It assumed ordinance status pursuant to F.S. ch. 166 and has been transferred into the Code of Ordinances.

Sec. 12.24. - Owner may pay assessment at any time; no bar to supplementary assessments.

Editor's note— Section 12.24 was derived from Laws of Fla. (1925) ch. 11148, § 143; Laws of Fla. (1929) ch. 14375, § 59. It assumed ordinance status pursuant to F.S. ch. 166 and has been transferred into the Code of Ordinances.

Sec. 12.25. - Legality of special assessments may be contested within thirty days.

Editor's note— Section 12.25 was derived from Laws of Fla. (1925) ch. 11148, § 144; Laws of Fla. (1929) ch. 14375, § 60. It assumed ordinance status pursuant to F.S. ch. 166 and has been transferred into the Code of Ordinances.

Sec. 12.26. - Improvement bonds—Issuance authorized; conditions.

Editor's note— Section 12.26 was derived from Laws of Fla. (1925) ch. 11148, § 145; Laws of Fla. (1929) ch. 14375, § 61. It assumed ordinance status pursuant to F.S. ch. 166 and has been transferred into the Code of Ordinances.

Sec. 12.27. - Same—Bonds issued on abutting property not previously pledged.

Editor's note— Section 12.27 was derived from Laws of Fla. (1925) ch. 11148, § 145; Laws of Fla. (1929) ch. 14375, § 61. It assumed ordinance status pursuant to F.S. ch. 166 and has been transferred into the Code of Ordinances.

Sec. 12.28. - Same—General requirements.

Editor's note— Section 12.28 was derived from Laws of Fla. (1925) ch. 11148, § 145; Laws of Fla. (1929) ch. 14375, § 61. It assumed ordinance status pursuant to F.S. ch. 166 and has been transferred into the Code of Ordinances.

ARTICLE XIII. - STREETS AND SIDEWALKS

Sec. 13.01. - Issuance of certificates of indebtedness by city commission for street and public improvements; pledge of utility tax.

The City of St. Augustine, Florida, by and through its city commission, be, and it is hereby, authorized and empowered to provide, by ordinance for the issuance of certificates of indebtedness in such amounts and in such denomination and to bear such rate of interest and to mature as may be prescribed by the ordinance authorizing issuance of the same, for the purpose of raising funds necessary to repair, reconstruct, renew, improve, alter, rebuild and maintain municipal streets, sidewalks, sewers and drains and for repaving and resurfacing such municipal streets and sidewalks, and also for any and all permanent public improvements, and to pledge the utility tax levied and collected by the City of St. Augustine, Florida, for the payment of said certificates of indebtedness.

(Laws of Fla. (1949) ch. 26192, § 2; Laws of Fla. ch. 67-1977, § 1)

Sec. 13.02. - Pipe connections to be made before paving streets.

Editor's note— Section 13.02 was derived from Laws of Fla. (1925) ch. 11148, § 153. It has been deleted as a limitation on power repealed by F.S. ch. 166.

Sec. 13.03. - Supervision and control.

The city commission shall provide by ordinance for the care, supervision, control and improvement of public highways, streets, avenues, alleys, sidewalks, public grounds, bridges, aqueducts and viaducts within the city and shall cause them to be kept open, in repair and free from nuisances.

(Laws of Fla. (1925) ch. 11148, § 162)

Sec. 13.04. - Commission may cause streets to be widened, straightened, opened, or closed.

Whenever it may be deemed necessary the city commission may cause any street, alley or public highway to be opened, straightened, diverted, narrowed, widened or vacated.

(Laws of Fla. (1925) ch. 11148, § 163)

Sec. 13.05. - Public streets must be dedicated as such.

No street or alley hereafter dedicated to public use by the owner of any land within the city shall be deemed a public street or alley, or under the care or control of the city, unless the dedication be accepted and confirmed by ordinance passed for such purpose, or unless the provisions of this Charter relating to platting subdivisions shall have been complied with.

(Laws of Fla. (1925) ch. 11148, § 164)

Sec. 13.06. - Procedure for vacating streets.

The city commission in vacating any street or part of street or changing the name of any street, may include in one ordinance the change of name or vacation or narrowing of more than one street, avenue or alley, but before vacating any street or part thereof, or narrowing any street, the commission shall first pass a resolution declaring its intention to do so. Personal service, the same as in the civil actions, shall be made upon all persons whose property abuts upon the portion of the street affected by the proposed vacation or narrowing and by publication once in one daily newspaper of general circulation in the city as to all the persons who cannot be personally served. Said notice shall state the time and place at which objections can be heard before the city commission and the commission may thereafter by ordinance declare such vacation or narrowing of street, avenue or alley of which notice was previously given as hereinbefore provided for and such order of the commission vacating or narrowing a street which has been dedicated to public use by the proprietor shall, to the extent to which it is vacated or narrowed, operate as a revocation of the acceptance thereof by the commission, but the right of way and easement therein of any lot owner shall not be impaired thereby.

(Laws of Fla. (1925) ch. 11148, § 165)

Sec. 13.07. - City manager to be supervisor of plats, etc.

Editor's note— Section 13.07 was derived from Laws of Fla. (1925) ch. 11148, § 166; Ord. No. 84-12, § 9, 4-23-84. It has been deleted as obsolete or a limitation on power repealed by F.S. ch. 166.

Sec. 13.08. - Public streets must be approved by supervisor of plats; exception.

Editor's note— Section 13.08 was derived from Laws of Fla. (1925) ch. 11148, § 167. It has been deleted as obsolete or a limitation on power repealed by F.S. ch. 166.

ARTICLE XIV. - FINANCES

DIVISION 1. - IN GENERAL

Sec. 14.01. - Fiscal year.

Editor's note— Section 14.01 was derived from Laws of Fla. (1925) ch. 11148, § 93; Laws of Fla. (1929) ch. 14375, § 15. It assumed ordinance status pursuant to F.S. ch. 166 and has been transferred into the Code of Ordinances.

Sec. 14.02. - City manager to submit budget to commission; information required.

Editor's note— Section 14.02 was derived from Laws of Fla. (1925) ch. 11148, § 94; Laws of Fla. (1929) ch. 14375, § 16. It assumed ordinance status pursuant to F.S. ch. 166 and has been transferred into the Code of Ordinances.

Sec. 14.03. - Budget estimate to be filed with chief accountant.

Editor's note— Section 14.03 was derived from Laws of Fla. (1925) ch. 11148, § 94; Laws of Fla. (1929) ch. 14375, § 16; Ord. No. 84-12, § 10, 4-23-84. It assumed ordinance status pursuant to F.S. ch. 166 and has been transferred into the Code of Ordinances.

Sec. 14.04. - Budget estimate to be basis for tax levies and appropriations.

Editor's note— Section 14.04 was derived from Laws of Fla. (1925) ch. 11148, § 94; Laws of Fla. (1929) ch. 14375, § 16. It assumed ordinance status pursuant to F.S. ch. 166 and has been transferred into the Code of Ordinances.

Sec. 14.05. - Exceeding budget estimate.

Editor's note— Section 14.05 was derived from Laws of Fla. (1925) ch. 11148, § 94; Laws of Fla. (1929) ch. 14375, § 16. It was a limitation on power that was repealed by F.S. ch. 166.

Sec. 14.06. - Budget estimate to show expenditures contemplated; notice and hearing; adoption; certification; disposition of unexpended funds.

Editor's note— Section 14.06 was derived from Laws of Fla. (1925) ch. 11148, § 95; Laws of Fla. (1929) ch. 14375, § 17; Laws of Fla. (1933) ch. 16657, § 2; Laws of Fla. (1937) ch. 18877, § 4; Ord. No. 74-27, § 1, 9-9-74. It assumed ordinance status pursuant to F.S. ch. 166 and has been transferred into the Code of Ordinances.

Sec. 14.07. - Transfer of funds.

Editor's note— Section 14.07 was derived from Laws of Fla. (1925) ch. 11148, § 97; Laws of Fla. (1929) ch. 14375, § 18; Ord. No. 84-12, § 10, 4-23-84. It assumed ordinance status pursuant to F.S. ch. 166 and has been transferred into the Code of Ordinances.

Sec. 14.08. - Commission may levy taxes to promote general welfare, etc.

Editor's note— Section 14.08 was derived from Laws of Fla. (1925) ch. 11148, § 100; Laws of Fla. (1929) ch. 14375, § 20. It has been deleted as a limitation on power repealed by F.S. ch. 166. See also F.S. §§ 166.211, 166.131, 166.201.

Sec. 14.09. - Money drawn from treasury; issuance of warrants.

Editor's note— Section 14.09 was derived from Laws of Fla. (1925) ch. 11148, § 99; Laws of Fla. (1929) ch. 14375, § 19; Ord. No. 84-12, § 10, 4-23-84. It assumed ordinance status pursuant to F.S. ch. 166 and has been transferred into the Code of Ordinances.

Sec. 14.10. - When competition required for expenditure over one thousand dollars.

Editor's note— Section 14.10 was derived from Laws of Fla. (1925) ch. 11148, § 154; Laws of Fla. (1955) ch. 31222, § 1. It has been deleted as a limitation on power that was repealed by F.S. ch. 166.

Sec. 14.11. - Commission may borrow money; current revenue notes.

Editor's note— Section 14.11 was derived from Laws of Fla. (1925) ch. 11148, § 148; Laws of Fla. (1929) ch. 14375, § 64; Ord. No. 84-12, § 10, 4-23-84. It has been deleted as a limitation on power repealed by F.S. ch. 166.

Sec. 14.12. - Determination of anticipated revenue, rate of interest, etc., prior to sale; deposit of proceeds.

Editor's note— Section 14.12 was derived from Laws of Fla. (1925) ch. 11148, § 148; Laws of Fla. (1929) ch. 14375, § 64; Ord. No. 84-12, § 10, 4-23-84. It has been deleted as a limitation on power that was repealed by F.S. ch. 166.

Sec. 14.13. - St. Augustine Restoration and Historical Commission; annual appropriation.

That the Board of County Commissioners of St. Johns County, Florida, and the City Commission of the City of St. Augustine, Florida, are each hereby authorized to appropriate, in their discretion, from such funds as may be available, not exceeding \$25,000.00 yearly, to be used by the St. Augustine Historical, Restoration and Preservation Commission, a body corporate, under the provisions of F.S. ch. 266.

(Laws of Fla. ch. 63-1848, § 1)

Secs. 14.14–14.18. - Reserved.

DIVISION 2. - ACQUIRING PROPERTY FOR PUBLIC PURPOSES

Sec. 14.19. - Short term contracts for purchase of buildings—Authorized by resolution; budget.

The city commission of the city of St. Augustine, Florida, shall have authority and is hereby empowered to enter into contracts and agreements for the purchase, acquisition and construction of municipal and other public buildings or structures necessary or appropriate for the use of the city, to be paid for in annual or semi-annual installments within five (5) years from the date of the making of a contract to purchase, acquire or construct the same, provided, that such contracts and agreements to purchase, acquire or construct, shall be specifically authorized by the city commission by a resolution duly adopted, determining the need therefor and setting forth the terms, conditions and provisions to be embraced in the contract, and the further source or sources from which it is anticipated the money shall become available to meet the installment payments to be made which shall thereafter be provided for in the making up of the future budgets of the city.

(Laws of Fla. ch. 59-1784, § 1)

Cross reference— General authority of the city in the purchase of buildings, lands, etc., § 3.02(d).

Sec. 14.20. - Same—Limitation of millage levied and size of expenditure.

The city commission of the city of St. Augustine, Florida, shall not levy more than one (1) mill in any fiscal year for the purposes of this act and the outstanding indebtedness of the city for such purposes shall not exceed one hundred thousand (\$100,000.00) dollars at any time.

(Laws of Fla. ch. 59-1784, § 2)

Sec. 14.21. - Same—Limited to one outstanding contract.

Each municipal and other public buildings or structures purchased, acquired and constructed under the provisions of this act shall be paid for in full prior to the execution of any other contract or agreement for the purchase, acquisition and construction of any other municipal and other public buildings or structures.

(Laws of Fla. ch. 59-1784, § 3)

Sec. 14.22. - Appropriation authorized; title acquired thereby; state law to apply to appropriation outside of city limits.

Property within the corporate limits of the city may be appropriated for any public or municipal purpose, and to the extent of the authority granted by the Constitution of the State, such appropriation to be made as herein provided. By such appropriation the city may acquire a fee simple title of any less estate, easement or use. Appropriation of property located outside the corporate limits of the city shall be made according to the requirements of, and as provided by, the general state law.

(Laws of Fla. (1925) ch. 11148, § 168)

Sec. 14.23. - Resolution declaring purpose, etc., of appropriation.

Editor's note— Section 14.23 was derived from Laws of Fla. (1925) ch. 11148, § 169. It has been deleted as a limitation on power as repealed by F.S. ch. 166.

Sec. 14.24. - Notice to be given owner; procedure when owner cannot be found.

Editor's note— Section 14.24 was derived from Laws of Fla. (1925) ch. 11148, § 170. It has been deleted as a limitation on power repealed by F.S. ch. 166.

Sec. 14.25. - Purchase of property by city.

Editor's note— Section 14.25 was derived from Laws of Fla. (1925) ch. 11148, § 171. It has been deleted as a limitation on power repealed by F.S. ch. 166.

Sec. 14.26. - Procedure on failure to agree on purchase price.

Editor's note— Section 14.26 was derived from Laws of Fla. (1925) ch. 11148, § 172. It has been deleted as a limitation on power repealed by F.S. ch. 166.

ARTICLE XV. - CITY PLANNING AND ZONING BOARD

Sec. 15.01. - Created; composition; appointments; qualifications of members; terms of office; vacancies; compensation.

Editor's note— Section 15.01 was derived from Laws of Fla. ch. 57-1778, § 1. It has been deleted as obsolete.

Sec. 15.02. - Meetings; chairman, etc.; quorum; records.

Editor's note— Section 15.02 was derived from Laws of Fla. ch. 57-1778, § 2. It has been deleted as obsolete.

Sec. 15.03. - Duties.

Editor's note— Section 15.03 was derived from Laws of Fla. ch. 57-1778, § 3. It has been deleted as obsolete.

Sec. 15.04. - Rules and bylaws.

Editor's note— Section 15.04 was derived from Laws of Fla. ch. 57-1778, § 4. It has been deleted as obsolete.

Sec. 15.05. - Provision for funds, etc., for commission.

Editor's note— Section 15.05 was derived from Laws of Fla. ch. 57-1778, § 5. It has been deleted as obsolete.

Sec. 15.06. - Form of and procedure as to commission's recommendations.

Editor's note— Section 15.06 was derived from Laws of Fla. ch. 57-1778, § 6. It has been deleted as obsolete.

Sec. 15.07. - Ex officio members.

Editor's note— Section 15.07 was derived from Laws of Fla. ch. 57-1778, § 7. It has been deleted as obsolete.

Sec. 15.08. - Acquisition of real property by city's street changes.

Editor's note— Section 15.08 was derived from Laws of Fla. ch. 57-1778, § 8. It has been deleted as obsolete.

Sec. 15.09. - Removal of members from office.

Editor's note— Section 15.09 was derived from Laws of Fla. ch. 57-1778, § 9. It has been deleted as obsolete.

Sec. 15.10. - Cooperation with county zoning and planning commission.

Editor's note— Section 15.10 was derived from Laws of Fla. ch. 57-1778, § 10. It has been deleted as obsolete.

ARTICLE XVI. - SLUM CLEARANCE AND URBAN RENEWAL

Sec. 16.01. - Findings and declarations of necessity.

It is hereby found and declared that there exists in the City of St. Augustine slum and blighted areas (as herein defined) which constitute a serious and growing menace, injurious to the public health, safety, morals and welfare of the residents of said municipality; that the existence of such areas contribute substantially and increasingly to the spread of disease and crime, constitutes an economic and social liability, imposing onerous municipal burdens which decrease the tax base and reduce tax revenues, substantially impairs or arrests the sound growth of said municipality, retards the provisions of housing accommodations, aggravates traffic problems and substantially impairs or arrests the elimination of traffic hazards and the improvement of traffic facilities; and that the prevention and elimination of slums and blight is a matter of public policy and concern in order that the said municipality shall not continue to be endangered by areas which are focal centers of disease, promote juvenile delinquency, and consume an excessive proportion of its revenues because of the extra services required for police, fire, accident, hospitalization and other forms of public protection, services and facilities.

It is further found and declared that certain slum or blighted areas, or portions thereof, may require acquisition, clearance, and disposition subject to use restrictions, as provided in this Act, since the prevailing condition of decay may make impracticable the reclamation of the area by conservation or rehabilitation; that other areas or portions thereof may, through the means provided in this Act, be susceptible of conservation or rehabilitation in such a manner that the conditions and evils hereinbefore enumerated may be eliminated, remedied or prevented; and that the salvageable slum and blighted areas can be conserved and rehabilitated through appropriate public action as herein authorized, and the cooperation and voluntary action of the owners and tenants of property in such areas.

It is further found and declared that the powers conferred by this Act are for public uses and purposes for which public money may be expended and the power of eminent domain and police power exercised; and that the necessity in the public interest for the provisions herein enacted is hereby declared as a matter of legislative determination.

(Laws of Fla. ch. 61-2739, § 1)

Sec. 16.02. - Encouragement of private enterprises.

The City of St. Augustine, to the greatest extent it determines to be feasible in carrying out the provisions of this Act, shall afford maximum opportunity, consistent with the sound needs of said municipality as a whole, to the rehabilitation or redevelopment of the urban renewal area by private enterprise. The City shall give consideration to this objective in exercising its powers under this Act, including the formation of a workable program, the approval of urban renewal plans (consistent with the general plan of the municipality), the exercise of its zoning powers, the enforcement of other laws, codes and regulations relating to the use of land and the use and occupancy of buildings and improvements, the disposition of any property acquired, and the provision of necessary public improvements.

(Laws of Fla. ch. 61-2739, § 2)

Sec. 16.03. - Workable program.

The City of St. Augustine for the purposes of this Act may formulate for the municipality a workable program for utilizing appropriate private and public resources to eliminate and prevent the development or spread of slums and urban blight, to encourage needed urban rehabilitation, to provide for the redevelopment of slum and blighted areas, or to undertake such of the aforesaid activities or other feasible municipal activities as may be suitably employed to achieve the objectives of such workable program. Such workable program may include, without limitation, provision for: the prevention of the spread of blight, into areas of the municipality, which are free from blight through diligent enforcement of housing, zoning and occupancy controls and standards; the rehabilitation or conservation of slum and blighted areas or portions thereof by replanning, removing congestion, providing parks, playgrounds and other public improvements, by encouraging voluntary rehabilitation and by compelling the repair and rehabilitation of deteriorated or deteriorating structures; and the clearance and redevelopment of slum and blighted areas or portions thereof.

(Laws of Fla. ch. 61-2739, § 3)

Sec. 16.04. - Finding of necessity by the city commission.

The City of St. Augustine shall not exercise the authority hereafter conferred by this Act until after the City Commission shall have adopted a resolution finding that: (1) one or more slum or blighted areas in such municipality; and (2) the rehabilitation, conservation, redevelopment, or a combination thereof, of such area or areas is necessary in the interest of the public health, safety, morals or welfare of the residents of such municipality.

(Laws of Fla. ch. 61-2739, § 4)

Sec. 16.05. - Preparation and approval of urban renewal projects and urban renewal plan.

- (a) The City of St. Augustine shall not approve an urban renewal project for an urban renewal area unless the City Commission has, by resolution, determined such area to be a slum area or a blighted area or a combination thereof and designated such area as appropriate for an urban renewal project. Said City Commission shall not approve an urban renewal plan until a general plan for the municipality has been prepared. For this purpose and other municipal purposes, authority is hereby vested in said municipality to prepare, to adopt and to revise from time to time, a general plan for the physical development of the municipality as a whole (giving due regard to the environs and metropolitan surroundings), to establish and maintain a planning commission for such purpose and related municipal planning activities, and to make available and to appropriate necessary funds therefor. Said municipality shall not acquire real property for an urban renewal project unless the City Commission has approved the urban renewal project in accordance with subsection (d) hereof and the project has been approved by a referendum as provided in subsection (f) hereof.
- (b) The municipality may itself prepare or cause to be prepared an urban renewal plan, or any person or agency, public or private, may submit such a plan to said municipality. Prior to its approval of an urban renewal project, the City Commission shall submit such plan to the planning commission of the municipality, if any, for review and recommendations as to its conformity with the general plan for the development of the municipality as a whole. The planning commission shall submit its

written recommendations with respect to the proposed urban renewal plan to said City Commission within thirty (30) days after receipt of the plan for review. Upon receipt of the recommendations of the planning commission or, if no recommendations are received within said thirty (30) days, then without such recommendations, said City Commission may proceed with the hearing on the proposed urban renewal project prescribed by subsection (c) hereof.

- (c) The City Commission shall hold a public hearing on an urban renewal project, after public notice thereof by publication in a newspaper having a general circulation in the area of operation of the municipality. The notice shall describe the time, date, place and purpose of the hearing, shall generally identify the urban renewal area covered by the plan, and shall outline the general scope of the urban renewal project under consideration.
- (d) Following such hearing, the City Commission may approve an urban renewal project if it finds that (1) a feasible method exists for the location of families who will be displaced from the urban renewal area in decent, safe and sanitary dwelling accommodations within their means and without undue hardship to such families; (2) the urban renewal plan conforms to the general plan of the municipality as a whole; and (3) the urban renewal plan will afford maximum opportunity, consistent with the sound needs of the municipality as a whole, for the rehabilitation or redevelopment of the urban renewal area by private enterprise; provided, that if the urban renewal area consists of an area of open land to be acquired by the municipality, such area shall not be so acquired unless (1) if it is to be developed for residential uses, said City Commission shall determine that a shortage of housing of sound standards and design which is decent, safe and sanitary exists in the municipality; that the need for housing accommodations has been or will be increased as a result of the clearance of slums in other areas (including other portions of the urban renewal area); that the conditions of blight in the area and the shortage of decent, safe and sanitary housing cause or contribute to an increase in and spread of disease and crime and constitute a menace to the public health, safety, morals, or welfare; and the acquisition of the area for residential uses is an integral part of and essential to the program of the municipality, or (2) if it is to be developed for nonresidential uses, the local governing body shall determine that such nonresidential uses are necessary and appropriate to facilitate the proper growth and development of the community in accordance with sound planning standards and local community objectives, which acquisition may require the exercise of governmental action, as provided in this Act, because of defective or unusual conditions of title, diversity of ownership, tax delinquency, improper subdivisions, outmoded street patterns, deterioration of site, economic disuse, unsuitable topography or faulty lot layouts, the need for the correlation of the area with other areas of the municipality by streets and modern traffic requirements or any combination of such factors or other conditions which retard development of the area.
- (e) An urban renewal plan may be modified at any time: Provided that if modified after the lease or sale by the municipality of real property in the urban renewal project area, such modification may be conditioned upon such approval of the owner, lessee or successor in interest as the municipality may deem advisable and in any event shall be subject to such rights at law or in equity as a lessee or purchaser, or his successor or successors in interest, may be entitled to assert.
- (f) Upon approval by the municipality of an urban renewal plan or of any modification thereof the municipality shall call a special election within thirty (30) days and refer final decision on whether or not to proceed with the specific urban renewal project according to said plan or modification, to the electors of the municipality. Upon approval by a majority of the duly qualified electors voting in said special election of the decision to proceed with the specific urban renewal plan or modification, such plan or modification shall be deemed to be in full force and effect for the respective urban renewal area and the municipality may then cause such plan or modification to be carried out in accordance with its terms.
- (g) Notwithstanding any other provisions of this Act, where the City Commission certifies that an area is in need of redevelopment or rehabilitation as a result of a flood, fire, hurricane, earthquake, storm or other catastrophe, respecting which the Governor of the State has certified the need for disaster assistance under Public Law 875, Eighty-first Congress, or other Federal law, the City Commission may approve an urban renewal plan and an urban renewal project with respect to such area without

regard to the provisions of subsection (d) of this section and the provisions of this section requiring a general plan for the municipality and a public hearing on the urban renewal project.

(Laws of Fla. ch. 61-2739, § 5)

Sec. 16.06. - Powers.

The City of St. Augustine shall have all the powers necessary or convenient to carry out and effectuate the purposes and provisions of this Act, including the following powers in addition to others herein granted:

- (a) To undertake and carry out urban renewal projects within its area of operation; and to make and execute contracts and other instruments necessary or convenient to the exercise of its powers under this Act; and to disseminate slum clearance and urban renewal information;
- (b) To provide or to arrange or contract for the furnishing or repair by any person or agency, public or private, of services, privileges, works, streets, roads, public utilities or other facilities for or in connection with an urban renewal project; to install, construct, and reconstruct streets, utilities, parks, playgrounds, and other public improvements; and to agree to any conditions that it may deem reasonable and appropriate attached to Federal financial assistance and imposed pursuant to Federal law relating to the determination of prevailing salaries or wages or compliance with labor standards, in the undertaking or carrying out of an urban renewal project, and to include in any contract let in connection with such a project, provisions to fulfill such of said conditions as it may deem reasonable and appropriate;
- (c) Within its area of operation, to enter into any building or property in any urban renewal area in order to make inspections, surveys, appraisals, soundings or test borings, and to obtain an order for this purpose from a court of competent jurisdiction in the event entry is denied or resisted; to acquire by purchase, lease, option, gift, grant, bequest, devise, eminent domain or otherwise any real property (or personal property for its administrative purposes) together with any improvements thereon; to hold, improve, clear or prepare for redevelopment any such property; to dispose of any real property; to insure or provide for the insurance of any real or personal property or operations of the municipality against any risks or hazards, including the power to pay premiums on any such insurance; and to enter into any contracts necessary to effectuate the purposes of this Act: Provided, however, that no statutory provision with respect to the acquisition, clearance or disposition of property by public bodies shall restrict the municipality in the exercise of such functions with respect to an urban renewal project, unless the legislature shall specifically so state;
- (d) To invest any urban renewal project funds held in reserve or sinking funds or any such funds not required for immediate disbursement, in property or securities in which savings banks may legally invest funds subject to their control; to redeem such bonds as have been issued pursuant to Section 9 [16.09] of this Act at the redemption price established therein or to purchase such bonds at less than redemption price, all such bonds so redeemed or purchased to be cancelled;
- (e) To borrow money and to apply for and accept advances, loans, grants, contributions and any other form of financial assistance from the Federal Government, the State, County or other public body, or from any sources, public or private, for the purposes of this Act, and to give such security as may lawfully be required and to enter into and carry out contracts in connection therewith. The municipality may include in any contract for financial assistance with the Federal Government for an urban renewal project such conditions imposed pursuant to Federal laws as the municipality may deem reasonable and appropriate and which are not inconsistent with the purposes of this Act;
- (f) Within its area of operation, to make or have made all surveys and plans necessary to the carrying out of the purposes of this Act and to contract with any person, public or private, in making and carrying out such plans and to adopt or approve, modify and amend such plans. Such plans may include, without limitation: (1) a general plan for the locality as a whole, (2) urban renewal plans, (3) preliminary plans outlining urban renewal activities, for neighborhoods to embrace two or more urban renewal areas, (4) plans for carrying out a program of voluntary or compulsory repair and rehabilitation of buildings and improvements, (5) plans for the enforcement of State and local laws, codes and regulations relating to the use of land and the use and occupancy of buildings and improvements and to the compulsory repair, rehabilitation, demolition, or removal of buildings and improvements, and (6) appraisals, title searches, surveys, studies, and other plans and work

necessary to prepare for the undertaking of urban renewal projects. The municipality is authorized to develop, test and report methods and techniques, and carry out demonstrations and other activities, for the prevention and the elimination of slums and urban blight and to apply for, accept and utilize grants of funds from the Federal Government for such purposes.

- (g) To prepare plans for the relocation of persons (including families, business concerns and other) displaced by an urban renewal project, and to make relocation payments to or with respect to such persons for moving expenses and losses of property for which reimbursements or compensation is not otherwise made, including the making of such payments financed by the Federal Government.
- (h) To appropriate such funds and make such expenditures as may be necessary to carry out the purposes of this Act, and to levy taxes and assessments for such purposes; to zone or rezone any part of the municipality or make exceptions from building regulations; and to enter into agreements with an urban renewal agency vested with urban renewal project powers under Section 14 [16.14] of this Act, (which agreements may extend over any period, notwithstanding any provision or rule of law to the contrary), respecting action to be taken by such municipality pursuant to any of the powers granted by this Act.
- (i) To close, vacate, plan or replan, streets, roads, sidewalks, ways or other places; and to plan or replan any part of the municipality;
- (j) Within its area of operation, to organize, coordinate and direct the administration of the provisions of this Act as they apply to such municipality in order that the objective of remedying slum and blighted areas and preventing the causes thereof within such municipality may be most effectively promoted and achieved, and to establish such new office or offices of the municipality or to reorganize existing offices in order to carry out such purpose most effectively; and
- (k) To exercise all or any part or combination of powers herein granted.

(Laws of Fla. ch. 61-2739, § 6)

Sec. 16.07. - Eminent domain.

The City of St. Augustine shall have the right to acquire by condemnation any interest in real property, including a fee simple title thereto, which it may deem necessary for or in connection with an urban renewal project under this Act. Said municipality may exercise the power of eminent domain in the manner provided in F.S. chs. 73 and 74, and acts amendatory thereof or supplementary thereto, or it may exercise the power of eminent domain in the manner now or which may be hereafter provided by any other statutory provisions for the exercise of the power of eminent domain. Property already devoted to a public use may be acquired in like manner: Provided, that no real property belonging to the State, or any political subdivision thereof, may be acquired without its consent.

(Laws of Fla. ch. 61-2739, § 7)

Cross reference— See also § 3.02(d) and note.

Sec. 16.08. - Disposal of property in urban renewal area.

- (a) The City of St. Augustine may sell, lease or otherwise transfer real property or any interest therein acquired by it, and may enter into contracts with respect thereto, in an urban renewal area for residential, recreational, commercial, industrial or other uses or for public use, or may retain such property or interest for public use, in accordance with the urban renewal plan, subject to such covenants, conditions and restrictions, including covenants running with the land, as it may deem to be necessary or desirable to assist in preventing the development or spread of future slums or blighted areas or to otherwise carry out the purposes of this Act: Provided, that such sale, lease, other transfer, or retention, and any agreement relating thereto, may be made only after the approval of the urban renewal plan by the City Commission. The purchasers or lessees and their successors and assigns shall be obligated to devote such real property only to the uses specified in the urban renewal plan, and may be obligated to comply with such other requirements as the municipality may determine to be in the public interest, including the obligation to begin within a reasonable time any improvements on such real property required by the urban renewal plan. Such real property or interest shall be sold, leased, otherwise transferred, or retained at not less than its fair value, for uses

in accordance with the urban renewal plan. In determining the fair value of real property for uses in accordance with the urban renewal plan, the municipality shall take into account and give consideration to the uses provided in such plan; the restrictions upon, and the covenants, conditions and obligations assumed by the purchaser or lessee or by the municipality retaining the property; and the objectives of such plan for the prevention of the recurrence of slum or blighted areas. The municipality in any instrument of conveyance to a private purchaser or lessee may provide that such purchaser or lessee shall be without power to sell, lease or otherwise transfer the real property without the prior written consent of the municipality until he has completed the construction of any or all improvements which he has obligated himself to construct thereon. Real property acquired by the municipality which, in accordance with the provisions of the urban renewal plan, is to be transferred, shall be transferred as rapidly as feasible in the public interest consistent with the carrying out of the provisions of the urban renewal plan. Any contract for such transfer and the urban renewal plan (or such part of such contract or plan as the municipality may determine) may be recorded in the office of the Clerk of the Circuit Court of St. Johns County, Florida.

- (b) The municipality may dispose of real property in an urban renewal area to private persons only under such reasonable competitive bidding procedures as it shall prescribe or as hereinafter provided in this subsection. The municipality may, by public notice by publication in a newspaper having a general circulation in the community (thirty days prior to the execution of any contract to sell, lease or otherwise transfer real property and prior to the delivery of any instrument of conveyance with respect thereto under the provisions of this section) invite proposals from and make available all pertinent information to private redevelopers or any persons interested in undertaking to redevelop or rehabilitate an urban renewal area, or any part thereof, and shall state that proposals shall be made by those interested within thirty days after the date of publication of said notice, and that such further information as is available may be obtained at such office as shall be designated in said notice. The municipality shall consider all such redevelopment or rehabilitation proposals and the financial and legal ability of the persons making such proposals to carry them out, and may negotiate with any persons for proposals for the purchase, lease or other transfer of any real property acquired by the municipality in the urban renewal area. The municipality may accept such proposal as it deems to be in the public interest and in furtherance of the purposes of this Act: Provided, that a notification of intention to accept such proposal shall be filed with the City Commission not less than thirty days prior to any such acceptance. Thereafter, the municipality may execute such contract in accordance with the provisions of subsection (a) and deliver deeds, leases and other instruments and take all steps necessary to effectuate such contract.
- (c) The municipality may temporarily operate and maintain real property acquired in an urban renewal area pending the disposition of the property as authorized in this Act, without regard to the provisions of subsection (a) above, for such uses and purposes as may be deemed desirable even though not in conformity with the urban renewal plan.

(Laws of Fla. ch. 61-2739, § 8)

Sec. 16.09. - Issuance of bonds.

- (a) The City of St. Augustine shall have power to issue bonds from time to time in its discretion to finance the undertaking of any urban renewal project under this Act, including, without limiting the generality thereof, the payment of principal and interest upon any advances for surveys and plans, and shall also have the power to issue refunding bonds for the payment or retirement of such bonds previously issued by it. Such bonds shall be made payable, as to both principal and interest, solely from the income, proceeds, revenues, and funds of the municipality derived from or held in connection with its undertaking and carrying out of urban renewal projects under this Act: Provided, however, that payment of such bonds, both as to principal and interest, may be further secured by a pledge of any loan, grant or contribution from the Federal Government or other sources, in aid of any urban renewal projects of the municipality under this Act.
- (b) Bonds issued under this section shall not constitute an indebtedness within the meaning of any constitutional or statutory debt, limitation or restriction, and shall not be subject to the provisions of any other law or charter relating to the authorization, issuance or sale of bonds. Bonds issued under

the provisions of this Act are declared to be issued for an essential public and governmental purpose and together with interest thereon and income therefrom, shall be exempted from all taxes.

- (c) Bonds issued under this section shall be authorized by resolution or ordinance of the local governing body and may be issued in one or more series and shall bear such date or dates, be payable upon demand or mature at such time or times, bear interest at such rate or rates, not exceeding six per centum per annum, be in such denomination or denominations, be in such form either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable in such medium of payment, at such place or places, and be subject to such terms of redemption (with or without premium), be secured in such manner, and have such other characteristics, as may be provided by such resolution or trust indenture or mortgage issued pursuant thereto.
- (d) Such bonds may be sold at not less than par at public sales held after notice published prior to such sale in a newspaper having a general circulation in the area of operation and in such other medium of publications as the municipality may determine or may be exchanged for other bonds on the basis of par: Provided that such bonds may be sold to the Federal Government at private sale at not less than par, and in the event less than all of the authorized principal amount of such bonds is sold to the Federal Government, the balance may be sold at private sale at not less than par at an interest cost to the municipality of not to exceed the interest cost to the municipality of the portion of the bonds sold to the Federal Government.
- (e) In case any of the public officials of the municipality whose signature appear on any bonds or coupons issued under this Act shall cease to be such officials before the delivery of such bonds, such signatures shall, nevertheless, be valid and sufficient for all purposes, the same as if such officials had remained in office until such delivery. Any provision of any law to the contrary notwithstanding, any bonds issued pursuant to this Act shall be fully negotiable.
- (f) If any suit, action or proceeding involving the validity or enforceability of any bond issued under this Act or the security therefor, any such bond reciting in substance that it has been issued by the municipality in connection with an urban renewal project, as herein defined, shall be conclusively deemed to have been issued for such purpose and such project shall be conclusively deemed to have been planned, located and carried out in accordance with the provisions of this Act.

(Laws of Fla. ch. 61-2739, § 9)

Sec. 16.10. - Bonds as legal investments.

All banks, trust companies, bankers, savings banks and institutions, building and loan associations, savings and loan associations, investment companies and other persons carrying on a banking or investment business, all insurance companies, insurance associations, and other persons carrying on an insurance business; and all executors, administrators, curators, trustees, and other fiduciaries, may legally invest any sinking funds, moneys, or other funds belonging to them or within their control in any bonds or other obligations issued by the City of St. Augustine pursuant to this Act or by any urban renewal agency vested with urban renewal project powers under Section 14 [16.14] of this Act: Provided that such bonds and other obligations shall be secured by an agreement between the issuer and the Federal Government in which the issuer agrees to borrow from the Federal Government and the Federal Government agrees to lend to the issuer prior to the maturity of such bonds or other obligations, moneys in an amount which (together with any other moneys irrevocably committed to the payment of interest on such bonds or other obligations) will suffice to pay the principal of such bonds or other obligations with interest to maturity thereon, which moneys under the terms of said agreement are required to be used for the purpose of paying the principal of and the interest on such bonds or other obligations at their maturity. Such bonds and other obligations shall be authorized security for all public deposits. It is the purpose of this section to authorize any persons, political subdivisions and officers, public or private, to use any funds owned or controlled by them for the purchase of any such bond or other obligations. Nothing contained in this section with regard to legal investments shall be construed as relieving any person of any duty of exercising reasonable care in selecting securities.

(Laws of Fla. ch. 61-2739, § 10)

Sec. 16.11. - Property exempt from taxes and from levy and sale by virtue of an execution.

- (a) All property of the City of St. Augustine, including funds, owned or held by it for the purposes of this Act shall be exempt from levy and sale by virtue of an execution, and no execution or other judicial process shall issue against the same nor shall judgment against the municipality be a charge or lien upon such property: Provided, however, that the provisions of this section shall not apply to or limit the right of obligees to pursue any remedies for the enforcement of any pledge or lien given pursuant to this Act by the municipality on its rents, fees, grants or revenues from urban renewal projects.
- (b) The property of the municipality, acquired or held for the purposes of this Act, is declared to be public property used for essential public and governmental purposes and such property shall be exempt from all taxes of the municipality, the county, the state or any political subdivision thereof: Provided, that such tax exemption shall terminate when the municipality sells, leases, or otherwise disposes of such property in an urban renewal area to a purchaser or lessee which is not a public body entitled to tax exemption with respect to such property.

(Laws of Fla. ch. 61-2739, § 11)

Sec. 16.12. - Cooperation by public bodies.

- (a) For the purpose of aiding in the planning, undertaking or carrying out of an urban renewal project located within the area in which it is authorized to act, any public body may, upon such terms, with or without consideration, as it may determine: (1) dedicate, sell, convey or lease any of its interest in any property or grant, easements, licenses or other rights or privileges therein to the City of St. Augustine; (2) incur the entire expense of any public improvements made by such public body in exercising the powers granted in this section; (3) do any and all things necessary to aid or cooperate in the planning or carrying out of an urban renewal plan; (4) lend, grant or contribute funds to said municipality; (5) enter into agreements (which may extend over any period, notwithstanding any provision or rule of law to the contrary) with said municipality or other public body respecting action to be taken pursuant to any of the powers granted by this Act, including the furnishing of funds or other assistance in connection with an urban renewal project; and (6) cause public buildings and public facilities, including parks, playgrounds, recreational community, educational, water, sewer or drainage facilities, or any other works which it is otherwise empowered to undertake to be furnished; furnish, dedicate, close, vacate, pave, install, grade, regrade, plan or replan streets, roads, sidewalks, ways or other places; plan or replan; zone or rezone any part of the public body or make exceptions from building regulations; and cause administrative and other services to be furnished to the municipality. If at any time title to or possession of any urban renewal project is held by any public body or governmental agency, other than the municipality which is authorized by law to engage in the undertaking, carrying out, or administration of urban renewal projects (including any agency or instrumentality of the United States of America), the provisions of the agreements referred to in this section shall inure to the benefit of and may be enforced by such public body or governmental agency. As used in this subsection, the term "municipality" shall also include an urban renewal agency vested with all of the urban renewal project powers pursuant to the provisions of Section 14 [16.14].
- (b) Any sale, conveyance, lease or agreement provided for in this section may be made by a public body without appraisal, public notice, advertisement or public bidding.
- (c) For the purpose of aiding in the planning, undertaking or carrying out of an urban renewal project of an urban renewal agency hereunder, the municipality may (in addition to its other powers and upon such terms, with or without considerations, as it may determine) do and perform any and all of the actions or things which, by the provisions of subsection (a) of this section, a public body is authorized to do or perform, including the furnishing of financial and other assistance.
- (d) For the purposes of this section, or for the purpose of aiding in the planning, undertaking or carrying out of an urban renewal project of the municipality, said municipality may (in addition to any authority to issue bonds pursuant to Section 9 [16.09]) issue and sell its general obligation bonds. Any bonds issued by the municipality pursuant to this section shall be issued in the manner and

within the limitations prescribed by the laws of the state for the issuance and authorization of bonds by such municipality for public purposes generally except as to constitutional requirements.

(Laws of Fla. ch. 61-2739, § 12)

Sec. 16.13. - Title of purchaser.

Any instrument executed by the City of St. Augustine and purporting to convey any right, title or interest in any property under this Act shall be conclusively presumed to have been executed in compliance with the provisions of this Act insofar as title or other interest of any bona fide purchasers, lessees or transferees of such property is concerned.

(Laws of Fla. ch. 61-2739, § 13)

Sec. 16.14. - Exercise of powers in carrying out urban renewal project.

- (a) The City of St. Augustine may itself exercise its urban renewal project powers (as herein defined) or may, if the City Commission by resolution determines such action to be in the public interest, elect to have such powers exercised by the urban renewal agency (created by Section 15 [16.15]), if one exists or is subsequently established in the community. In the event the local government body makes such determination, the urban renewal agency shall be vested with all of the urban renewal project powers in the same manner as though all such powers were conferred on such agency instead of the municipality. If the City Commission does not elect to make such determination, the municipality in its discretion may exercise its urban renewal project powers through a board or commissioner or through such officers of the municipality as the City Commission may by resolution determine.
- (b) As used in this section, the term "urban renewal project powers" shall include the rights, powers, functions and duties of the municipality under this Act, except the following: the power to determine an area to be a slum or blighted area or combination thereof and to designate such area as appropriate for an urban renewal project and to hold any public hearings required with respect thereto; the power to approve urban renewal plans and modifications thereof; the power to establish a general plan for the locality as a whole; the power to formulate a workable program under Section 3 [16.03]; the power to make the determinations and findings provided for in Section 2 [16.02], Section 4 [16.04], and Section 5(d) [16.05(d)]; the power to issue general obligation bonds; and the power to appropriate funds, to levy taxes and assessments, and to exercise their powers provided for in Section 6(h) [16.06(h)].

(Laws of Fla. ch. 61-2739, § 14)

Sec. 16.15. - Urban renewal agency.

- (a) There is hereby created in the City of St. Augustine a public body, corporate and politic, to be known as the "Urban Renewal Agency" of the City of St. Augustine: Provided, that such Agency shall not transact any business or exercise its powers hereunder until or unless the local governing body has made the finding prescribed in Section 4 [16.04] and has elected to have the urban renewal project powers exercised by an urban renewal agency as provided in Section 14 [16.14].
- (b) If the urban renewal agency is authorized to transact business and exercise powers hereunder, the Mayor, by and with the advice and consent of the City Commission, shall appoint a Board of Commissioners of the urban renewal agency which shall consist of seven commissioners. The term of office of each such commissioner shall be one year.
- (c) A Commissioner shall receive no compensation for his services but shall be entitled to the necessary expenses, including traveling expenses, incurred in the discharge of his duties; each commissioner shall hold office until his successor has been appointed and has qualified. A certificate of the appointment or reappointment of any commissioner shall be filed with the clerk of the City of St. Augustine and such certificate shall be conclusive evidence of the due and proper appointment of such commissioner.

The powers of the urban renewal agency shall be exercised by the commissioners thereof. A majority of the commissioners shall constitute a quorum for the purpose of conducting business and exercising the powers of the agency and for all other purposes. Action may be taken by the agency upon a vote of a majority of the commissioners present, unless in any case the by-laws shall require a larger number. Any persons may be appointed as commissioners if they reside within the area of operation of the agency (which shall be coterminous with the area of operation of the municipality) and are otherwise eligible for such appointments under this Act.

The Mayor shall designate a Chairman and Vice-Chairman from among the commissioners. The agency may employ an executive director, technical experts and such other agents and employees, permanent and temporary, as it may require, and determine their qualifications, duties and compensation. For such legal service as it may require, an agency may employ or retain its own counsel and legal staff. The agency authorized to transact business and exercise powers under this Act shall file, with the City Commission, on or before March 31 of each year, a report of its activities for the preceding calendar year, which report shall include a complete financial statement setting forth its assets, liabilities, income and operating expense as of the end of such calendar year. At the time of filing the report, the agency shall publish to the effect that such report has been filed with the municipality and that the report is available for inspection during the business hours in the office of the City Clerk and in the office of the agency.

- (d) For inefficiency or neglect of duty or misconduct in office, a commissioner may be removed only after a hearing and after he shall have been given a copy of the charges at least ten (10) days prior to such hearing and have had an opportunity to be heard in person or by counsel.

(Laws of Fla. ch. 61-2739, § 15)

Sec. 16.16. - Interested public officials, commissioners or employees.

No public official or employee of the City of St. Augustine (or board or commission thereof), and no commissioner or employee of the urban renewal agency which has been vested by a municipality with urban renewal project powers under Section 14 [16.14] shall voluntarily acquire any personal interest, direct or indirect, in any urban renewal project, or in any property included or planned to be included in any urban renewal project of such municipality or in any contract or proposed contract in connection with such urban renewal project. Where such acquisition is not voluntary, the interest acquired shall be immediately disclosed in writing to the local governing body and such disclosure shall be entered upon the minutes of the governing body. If any such official, commissioner or employee presently owns or controls, or owned or controlled within the preceding two years, any interest, direct or indirect, in any property which he knows is included or planned to be included in an urban renewal project, he shall immediately disclose this act in writing to the City Commission, and such disclosure shall be entered upon the minutes of said City Commission and any such official, commissioner or employee shall not participate in any action by the municipality (or board or commission thereof), or urban renewal agency affecting such property. Any disclosure required to be made by this section to the City Commission shall concurrently be made to the urban renewal agency which has been vested with urban renewal project powers by the municipality pursuant to the provisions of section 14 [16.14]. No commissioner or other officer of the urban renewal agency, board or commission exercising powers pursuant to this Act shall hold any other public office under the City of St. Augustine other than his commissionership or office with respect to such urban renewal agency, board or commission. Any violation of the provisions of this section shall constitute misconduct in office.

(Laws of Fla. ch. 61-2739, § 16)

Sec. 16.17. - Definitions.

The following terms whenever used or referred to in this Act, shall have the following meanings, unless a different meaning is clearly indicated by the context:

- (a) "Agency" or "Urban Renewal Agency" shall mean a public agency created by Section 15 [16.15] of this Act.

- (b) "Municipality" shall mean the City of St. Augustine.
- (c) "Public Body" shall mean the State or any municipality, township, village, board, commission, authority, district, or any other subdivision or public body of the State.
- (d) "Mayor" shall mean the Mayor of the City of St. Augustine.
- (e) "Federal Government" shall include the United States of America or any agency or instrumentality, corporate or otherwise, of the United States of America.
- (f) "Slum Area" shall mean an area in which there is a predominance of buildings or improvements, whether residential or nonresidential, which by reason of dilapidation, deterioration, age or obsolescence, inadequate provision for ventilation, light, air, sanitation or open spaces, high density of population and overcrowding or the existence of conditions which endanger life or property by fire and other causes, or any combination of such facts is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, or crime, and is detrimental to the public health, safety, morals or welfare.
- (g) "Blighted Area" shall mean an area which by reason of the presence of a substantial number of slum, deteriorated or deteriorating structures, predominance of defective or inadequate street layout, faulty lot layout in relation to size, adequacy, accessibility or usefulness, unsanitary or unsafe conditions, deterioration of site or other improvements, diversity of ownership, tax or special assessment delinquency exceeding the fair value of the land, defective or unusual conditions of title, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors, substantially impairs or arrests the sound growth of a municipality, retards the provision of housing accommodations or constitutes an economic or social liability and is a menace to the public health, safety, morals, or welfare in its present condition and use: Provided, that if such blighted area consists of open land, the conditions contained in the proviso in Section 5(d) [16.05(d)] shall apply: and provided further, that any disaster area referred to in subsection (g) of Section 5 [16.05(g)] shall constitute a "Blighted Area."
- (h) "Urban Renewal Project" may include undertakings and activities of the municipality in an urban renewal area for the elimination and for the prevention of the development or spread of slums and blight, and may involve slum clearance and redevelopment in an urban renewal area, or rehabilitation or conservation in an urban renewal area, or any combination or part thereof in accordance with an urban renewal plan. Such undertakings and activities may include: (1) acquisition of a slum area or a blighted area or portion thereof; (2) demolition and removal of buildings and improvements; (3) installation, construction or reconstruction of streets, utilities, parks, playgrounds and other improvements necessary for carrying out in the urban renewal area the urban renewal objectives of this Act in accordance with the urban renewal plan; (4) disposition of any property acquired in the urban renewal area (including sale, initial leasing or retention by the municipality itself) at its fair value for uses in accordance with the urban renewal plan; (5) carrying out of plans for a program of voluntary or compulsory repair and rehabilitation of buildings or other improvements in accordance with the urban renewal plan; and (6) acquisition of any other real property in the urban renewal area where necessary to eliminate unhealthful, unsanitary or unsafe conditions, lessen density, eliminate obsolete or other uses detrimental to the public welfare, or otherwise to remove or prevent the spread of blight or deterioration, or to provide land or needed public facilities.
- (i) "Urban Renewal Area" means a slum area or a blighted area or a combination thereof which the City Commission designates as appropriate for an urban renewal project.
- (j) "Urban Renewal Plan" means a plan, as it exists from time to time, for an urban renewal project, which plan (1) shall conform to the general plan for the municipality as a whole except as provided in subsection 5(g) [16.05(g)]; and (2) shall be sufficiently complete to indicate such land acquisition, demolition, and removal of structures, redevelopment, improvements, and rehabilitation as may be proposed to be carried out in the urban renewal area, zoning and planning changes, if any, land uses, maximum densities, building requirements, and the plan's relationship to definite local objectives respecting appropriate land uses, improved traffic, public transportation, public utilities, recreational and community facilities, and other public improvements.

- (k) "Real Property" shall include all lands, including improvements and fixtures thereon, and property of any nature appurtenant thereto, or used in connection therewith and every estate, interest, right and use, legal or equitable therein, including terms for years and liens by way of judgment, mortgage or otherwise.
- (l) "Bond" shall mean any bonds (including refunding bonds), notes, interim certificates, certificates of indebtedness, debentures or other obligations.
- (m) "Obligee" shall include any bondholder, agents or trustees for any bondholders, or lessor demising to the municipality property used in connection with an urban renewal project, or any assignee or assignees of such lessor's interest or any part thereof, and the Federal Government when it is a party to any contract with the municipality.
- (n) "Person" shall mean any individual, firm, partnership, corporation, company, association, joint stock association, or body politic; and shall include any trustee, receiver, assignee, or other person acting in a similar representative capacity.
- (o) "Area of Operation" shall mean the area within the corporate limits of the municipality and the area within five miles of such limits, except that it shall not include any area which lies within the territorial boundaries of another incorporated city or town unless a resolution shall have been adopted by the governing body of such other city or town declaring a need therefor.
- (p) "Board" or "Commission" shall mean a board, commission, department, division, office, body or other unit of the City of St. Augustine.
- (q) "Public Officer" shall mean any officer who is in charge of any department or branch of the government of the City of St. Augustine relating to health, fire, building regulations, or to other activities concerning dwellings in the municipality.

(Laws of Fla. ch. 61-2739, § 17)

Sec. 16.18. - Separability; act controlling.

Notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any provision of this Act, or the application thereof to any person or circumstances, is held invalid, the remainder of the Act and the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

Insofar as the provisions of this Act are inconsistent with the provisions of any other law, the provisions of this Act shall be controlling. The powers conferred by this Act shall be in addition and supplemental to the powers conferred by any other law.

(Laws of Fla. ch. 61-2739, § 18)

ARTICLE XVII. - PUBLIC UTILITIES

DIVISION 1. - IN GENERAL

Sec. 17.01. - Commission may grant franchises.

Editor's note— Section 17.01 was derived from Laws of Fla. (1925) ch. 11148, § 173; Laws of Fla. (1929) ch. 14375, § 68; Ord. No. 77-14, § 1, 4-25-77. It has been deleted as a limitation on power repealed by F.S. ch. 166.

Sec. 17.02. - Reserved.

Editor's note— Ord. No. 77-14, § 2, adopted April 25, 1977, repealed § 17.02 providing that franchises not exceed thirty years. Said section was derived from Laws of Fla. (1925) ch. 11148, § 174; and Laws of Fla. (1929) ch. 14375, § 69.

Sec. 17.03. - Commission to prescribe service, etc., to be rendered; improvements to be rendered.

Editor's note— Section 17.03 was derived from Laws of Fla. (1925) ch. 11148, § 175; Laws of Fla. (1929) ch. 14375, § 70; Laws of Fla. (1951) ch. 27858, § 1. It has been deleted as a limitation on power that was repealed by F.S. ch. 166.

Sec. 17.04. - Commission may require utility to extend service.

Editor's note— Section 17.04 was derived from Laws of Fla. (1925) ch. 11148, § 176; Laws of Fla. (1929) ch. 14375, § 71. It has been deleted as a limitation on power that was repealed by F.S. ch. 166.

Sec. 17.05. - Annexed property to be subject to grant.

Editor's note— Section 17.05 was derived from Laws of Fla. (1925) ch. 11148, § 177; Laws of Fla. (1929) ch. 14375, § 72. It has been deleted as a limitation on power that was repealed by F.S. ch. 166.

Sec. 17.06. - Grants subject to control of city.

Editor's note— Section 17.06 was derived from Laws of Fla. (1925) ch. 11148, § 178; Laws of Fla. (1929) ch. 14375, § 73. It has been deleted as a limitation on power repealed by F.S. ch. 166.

Sec. 17.07. - Reserved.

Editor's note— Section 17.07, providing that grants of franchise must contain a forfeiture clause, was repealed by Ord. No. 77-14, § 2, adopted April 25, 1977. Said section was derived from Laws of Fla. (1925) ch. 11148, § 179 and Laws of Fla. (1925) ch. 14375, § 74.

Sec. 17.08. - Utility to keep books of account.

Editor's note— Section 17.08 was derived from Laws of Fla. (1925) ch. 11148, § 180; Laws of Fla. (1929) ch. 14375, § 75. It assumed ordinance status pursuant to F.S. ch. 166 and has been deleted as obsolete.

Sec. 17.09. - Utility to file report for preceding fiscal year; information required.

Editor's note— Section 17.09 was derived from Laws of Fla. (1925) ch. 11148, § 180; Laws of Fla. (1929) ch. 14375, § 75. It assumed ordinance status pursuant to F.S. ch. 166 and has been deleted as obsolete.

Sec. 17.10. - Commission to have access to utility's records.

Editor's note— Section 17.10 was derived from Laws of Fla. (1925) ch. 11148, § 180; Laws of Fla. (1929) ch. 14375, § 75. It assumed ordinance status pursuant to F.S. ch. 166 and has been deleted as obsolete.

Sec. 17.11. - Reserved.

Editor's note— Ord. No. 77-14, § 2, enacted April 25, 1977, repealed § 17.11 specifying the penalty for failure to comply with law. Said section was derived from Laws of Fla. (1925) ch. 11148, § 180 and Laws of Fla. (1929) ch. 14375, § 75.

Sec. 17.12. - Same—Exception.

Editor's note— Section 17.12 was deleted from Laws of Fla. (1925) ch. 11148, § 180; Laws of Fla. ch. 14375, § 75. It assumed ordinance status pursuant to F.S. ch. 166 and has been deleted as obsolete.

Sec. 17.13. - Permits for laying railroad spur tracks not regarded as grant.

Revocable permits for laying spur tracks across or along streets, public grounds and places to connect a steam or electric railroad with any property in need of switching facilities shall not be regarded as a grant within the meaning of this Act, but may be permitted in accordance with such terms and conditions as the city commission may prescribe.

(Laws of Fla. (1925) ch. 11148, § 181; Laws of Fla. (1929) ch. 14375, § 76)

Sec. 17.14. - Electrical contracts with private firms.

Editor's note— Section 17.14 was derived from Laws of Fla. (1925) ch. 11148, § 182; Laws of Fla. (1929) ch. 14375, § 77; Laws of Fla. (1939) ch. 20099, § 1. It was a limitation on power that was repealed by F.S. ch. 166.

Sec. 17.15. - Regulations of gas and electrical rates.

Editor's note— Section 17.15 was derived from Laws of Fla. (1935) ch. 17658, § 1. It was a limitation on power that was repealed by F.S. ch. 166.

Secs. 17.16–17.19. - Reserved.

DIVISION 2. - UTILITY LOANS

Sec. 17.20. - Revenue certificate of indebtedness.

Editor's note— Section 17.20 was derived from Laws of Fla. ch. 67-1976, § 1. It was a limitation on power that was repealed by F.S. ch. 166.

Secs. 17-21–17-31. - Reserved.

DIVISION 3. - GAS

Sec. 17.32. - Purchase, sale and distribution.

That in addition to all other powers conferred upon the City of St. Augustine by its Charter or by law and in addition to all other public works in which the said City is now authorized to engage, said City of St. Augustine is hereby authorized to purchase, sell, distribute and generally engage in the sale and distribution of natural gas within or without the City of St. Augustine, and within the boundaries of St. Johns County, but the said power shall not extend to or be exercised within the corporate limits of any other incorporated municipality or county without first obtaining permission and authorization from such other municipality or county.

(Laws of Fla. ch. 59-1789, § 1)

Cross reference— See notes under § 17.21.

Sec. 17.33. - Powers of city.

That said City, in the exercise of the powers created by Section 1 [17.32] of this Act, is hereby authorized and empowered to:

- (a) acquire necessary rights of way within and without the City of St. Augustine, by purchase, lease, condemnation or otherwise, for the establishment of natural gas pipe lines for the orderly production of such natural gas for distribution and
- (b) establish necessary pipe lines to connect at the nearest and most expedient and practical point with any main conduit established within the State of Florida by any company, corporation, or facility establishing a natural gas distribution line, or system within the State of Florida.

(Laws of Fla. ch. 59-1789, § 2)

Sec. 17.34. - Sale inside and outside city; rates.

That the said City of St. Augustine is hereby authorized to sell, furnish and deliver to the inhabitants of the City natural gas and to customers outside said City when the governing body of said City shall determine to establish a distribution line outside said City and provide facilities therefor. Said City is authorized to fix rates or charges to be made for such natural gas and to fix reasonable rules and regulations governing the

facilities required for distribution, including reasonable rates and charges for, and use of facilities connecting users with distribution lines maintained by the City.

(Laws of Fla. ch. 59-1789, § 3)

Sec. 17.35. - Rents, fees and charges; public hearings.

No rents, fees or charges shall be fixed under the provisions of this Act until after public hearing at which all of the users of natural gas furnished by said City under the provisions of this Act, or to be served thereby, and all other interested shall have an opportunity to be heard concerning the proposed rates, fees and charges. After the adoption by the City Commission of a resolution setting forth the preliminary schedule or schedules fixing and classifying such rates, fees and charges, notice of such hearing, setting forth the proposed schedule or schedules of rates, fees, and charges shall be given by one publication in a newspaper to be published in said City at least ten days before the date fixed in such notice for the hearing, which may be adjourned from time to time. After such hearing such preliminary schedule or schedules, either as originally adopted or after modified or amended, shall be adopted and put into effect, and thereupon the ordinance or resolution providing such rates and schedules may be generally adopted.

(Laws of Fla. ch. 59-1789, § 4)

Sec. 17.36. - Use by other municipalities.

The City of St. Augustine, Florida, is authorized by this Act to permit any other municipalities, association of owners or individual owners of lots or lands outside its corporate limits or within the limits of any other municipalities, to connect with or use the utilities mentioned in this Act upon such terms and conditions as may be agreed upon.

(Laws of Fla. ch. 59-1789, § 5)

Sec. 17.37. - Issuance of revenue bonds.

Editor's note— Section 17.37 was derived from Laws of Fla. ch. 59-1789, § 5. It has been deleted as a limitation on power repealed by F.S. ch. 166. See also F.S. § 166.101 et seq.

Sec. 17.38. - Supplemental powers.

The authority and powers granted by this chapter to the City of St. Augustine, Florida, shall be in addition to, but not in limitation of any of the powers heretofore or hereafter granted to municipalities now existing or thereafter created.

The City of St. Augustine is authorized to carry into effect any or all of the purposes defined in this chapter, may exercise the power of eminent domain over railroads, traction and street car lines, telephone and telegraph lines, all public and private streets and highways, drainage districts, bridge districts, school districts, and any other public or private lands or property whatsoever necessary to enable the accomplishment of the purposes of this chapter.

(Laws of Fla. ch. 59-1789, §§ 7, 8)

Sec. 17.39. - Employment of personnel; creation of office.

The City of St. Augustine may contract with engineers and attorneys for professional services required for the accomplishment of any or all of the purposes of this chapter; provided, however, that such employment is to be evidenced by written agreement setting forth the terms and conditions of the employment; provided further, that such municipality may also create such other offices and boards as may be necessary and expedient for carrying out the purposes of this chapter and shall provide suitable and fit compensation for the same.

(Laws of Fla. ch. 59-1789, § 9)

Sec. 17.40. - Tax exemption.

As proper facilities for the acquisition, distribution and sale of natural gas, it is essential for the general welfare of the municipality and for its industrial and commercial development and as the exercise of the powers conferred by this act to the effect that such purposes constitute the performance of essential municipal functions and as the facility provided for hereunder constitutes public property and used for municipal purposes, the municipality shall not be required to pay any taxes or assessments upon any such facilities or any part thereof, whether located within or without the territorial boundaries of the municipality, PROVIDED however this exemption of taxes shall be confined to municipal properties located in St. Johns County.

(Laws of Fla. ch. 59-1789, § 10)

ARTICLE XVIII. - CITY PARKING COMMISSION

Sec. 18.01. - Creation by ordinance.

Editor's note— Section 18.01 was derived from Laws of Fla. ch. 63-1856, § 1. It has been deleted as obsolete.

Sec. 18.02. - Purposes of ordinance; duties of commission.

Editor's note— Section 18.02 was derived from Laws of Fla. ch. 63-1856, § 2. It has been deleted as obsolete.

Sec. 18.03. - Powers of commission.

Editor's note— Section 18.03 was derived from Laws of Fla. ch. 63-1856, § 3. It has been deleted as obsolete.

Sec. 18.04. - Issuance of certificates of indebtedness.

Editor's note— Section 18.04 was derived from Laws of Fla. ch. 63-1856, § 4. It has been deleted as obsolete.

Sec. 18.05. - Eminent domain.

Editor's note— Section 18.05 was derived from Laws of Fla. ch. 63-1856, § 5. It has been deleted as obsolete.

ARTICLE XIX. - CITIZENS' ADVISORY COUNCIL

Sec. 19.01. - Established; composition; appointments, removals and vacancies; terms of office.

Editor's note— Section 19.01 was derived from Laws of Fla. ch. 57-1775, § 1. It has been deleted as obsolete.

Cross reference— City Planning Commission created, § 15.01.

Sec. 19.02. - Rules, etc.; chairman; meetings; quorum; compensation; members not to hold other city office.

Editor's note— Section 19.02 was derived from Laws of Fla. ch. 57-1775, § 2. It has been deleted as obsolete.

Sec. 19.03. - Capacity and duties.

Editor's note— Section 19.03 was derived from Laws of Fla. ch. 57-1775, § 3. It has been deleted as obsolete.

ARTICLE XX. – PENSIONS

Sec. 20.01. - Ratification required.

The powers and authority herein granted shall become effective only upon ratification and approval of an ordinance or ordinances adopted pursuant to the provisions of this Act [Article] by a majority of the electors voting thereon at any general or special election in the City of St. Augustine, Florida.

(Laws of Fla. (1947) ch. 24860, § 4)

Editor's note— While sections 20.01–20.03 are valid existing law, the provisions have not been activated by ordinance.

Sec. 20.02. - Fund for permanent city employees authorized; commission may receive gifts, etc., make rules, etc.

The City of St. Augustine, Florida shall have the power and is hereby authorized, by and through its city commission, to establish a fund or funds for the relief or pensions of persons in the permanent employment of said city, and it is further authorized and empowered to receive gifts, devises, bequests of money or property for the benefits of such fund or funds; to make contribution of public moneys thereto on such terms and conditions as it may see fit; and to make such rules and regulations for the management, enforcement and administration of such fund or funds as may be necessary.

(Laws of Fla. (1947) ch. 24860, § 1)

Sec. 20.03. - Commission may contract with insurance, pension, etc., companies; appropriations from treasury.

The City of St. Augustine shall have the power and is hereby authorized, by and through its city commission, to make contracts of insurance with any insurance company or companies authorized to transact business in the State of Florida, insuring its employees, or any class or classes thereof, under a policy or policies of group insurance covering life or health or accident insurance, and may contract with any company granting annuities or pensions and authorized to transact business in the State of Florida for the pensioning of such employees or any class or classes thereof; and for any and all such purposes may appropriate out of its treasury any money necessary to pay premiums or charges incident to the carrying on of such policies or contracts.

(Laws of Fla. (1947) ch. 24860, § 2)

Sec. 20.04. - Employees' pension fund created; activated by ordinance.

- (a) Created; trustee. There is hereby created a pension fund for all of the employees of the City of St. Augustine, Florida, which shall be known as the employees' pension fund of the City of St. Augustine, Florida. This fund shall be set up and administered by three (3) trustees; one to be appointed by the city commission, one by the employee members of the fund, and the third to be selected by these two members, all under the direction and supervision of the city commission of the City of St. Augustine, Florida, under terms and provisions of an ordinance which the city commission is hereby authorized to pass at such time as they find that activation and operation of such fund is desirable, expedient, practicable, and feasible.
- (b) Activation of provisions. Such ordinance activating such pension fund shall contain any and all provisions and requirements for the activation, operation, and maintenance of the fund, and the financing thereof; and shall provide for deductions from employee's salaries.
- (c) Authority of commission. The city commission of the City of St. Augustine, Florida, shall have full authority and complete discretion in setting up terms, conditions, and requirements of the employees' pension fund of the City of St. Augustine, Florida, and benefits thereof, and the contributions to be required from the city and from the employees in the financing of said fund.

- (d) Construction. This act [section] shall be liberally construed to give the city commission of the City of St. Augustine, Florida, necessary legislative authority and power to effectuate the purposes of this act, and provide a pension plan for all city employees.

(Laws of Fla. ch. 65-2163, §§ 1-4)

ARTICLE XXI. - ST. AUGUSTINE - ST. JOHNS COUNTY AIRPORT AUTHORITY

Editor's note— Article XXI, consisting of sections 21.01–21.12, has been deleted as not a part of the city's charter. It was derived from Laws of Fla. ch. 63-1853, Laws of Fla. ch. 65-2169, Laws of Fla. ch. 67-1983, Laws of Fla. ch. 69-1535 and Laws of Fla. ch. 89-496.

ARTICLE XXII. – MISCELLANEOUS

Sec. 22.01. - Code validated.

Editor's note— Section 22.01 was derived from Laws of Fla. ch. 65-2159. It has been deleted as obsolete.