



AGENDA

CHARTER REVIEW COMMISSION

**Meeting No. 2016-05
Monday – July 11, 2016 - 6:30 P.M.
City Hall Council Chambers
120 Malabar Road, Palm Bay, FL 32907**

CALL TO ORDER:

PLEDGE OF ALLEGIANCE:

ROLL CALL:

ADOPTION OF MINUTES:

1. Meeting No. 2016-02; June 30, 2016.
2. Meeting No. 2016-03; July 5, 2016.
3. Meeting No. 2016-04; July 6, 2016.

PUBLIC COMMENTS:

Public comments will be heard by the Commission at the time an agenda item is presented for consideration or discussion. Speakers are limited to three (3) minutes each.

REPORTS:

1. Chairman.
2. City staff.
3. Commission members.

UNFINISHED BUSINESS:

1. Review of the following articles:
 - a) Article III, Legislative, Section 3.03, Compensation; and
 - b) Article V, Qualifications and Elections, Section 5.04, Elections.

NEW BUSINESS:

1. Review and discussion of the City Charter.

ADJOURNMENT:

If an individual decides to appeal any decision made by the Charter Review Commission with respect to any matter considered at this meeting, a record of the proceedings will be required and the individual will need to ensure that a verbatim transcript of the proceedings is made, which record includes the testimony and evidence upon which the appeal is based (FS 286.0105). Such person must provide a method for recording the proceedings verbatim.

In accordance with the Americans with Disabilities Act, persons needing special accommodations for this meeting shall, at least 48 hours prior to the meeting, contact the Office of the City Clerk at (321) 952-3414 or Florida Relay System at 711.

THIS MEETING IS BROADCAST LIVE ON THE CITY'S WEBSITE.

City of Palm Bay, Florida

**CHARTER REVIEW COMMISSION
Meeting No. 2016-02**

Held on Monday, the 30th day of June 2016, at the Palm Bay City Hall Council Chambers, 120 Malabar Road, Palm Bay, Florida.

The meeting was properly noticed pursuant to law; the minutes are on file in the Office of the City Clerk, City Hall, 120 Malabar Road, SE, Palm Bay, Florida.

The meeting was called to order by Chairman Weinberg at 6:38 P.M.

Mr. Boothroyd led the Pledge of Allegiance to the Flag.

ROLL CALL:

CHAIRMAN:	Philip Weinberg	Present
VICE CHAIRMAN:	James Boothroyd	Present
MEMBER:	Donny Felix	Present (Late)
MEMBER:	Cynthia Moore	Present
MEMBER:	Kenneth Delgado	Present
MEMBER:	Robert Llewellyn	Present
MEMBER:	Ken Greene	Present
MEMBER:	Maria DeChristofano	Present
MEMBER:	David Myers	Absent
MEMBER:	Bill Battin	Present

ALSO PRESENT:

Gregg Lynk, City Manager; Terese Jones, City Clerk; Patricia Smith, Deputy City Attorney; Mayor William Capote.

ADOPTION OF MINUTES:

1. Organizational Meeting No. 2016-01; June 27, 2016.

Motion by Mr. Llewellyn, seconded by Mr. Boothroyd, to adopt the minutes. Motion carried unanimously.

PUBLIC COMMENTS:

There were no public comments.

REPORTS:

1. Chairman.

There was no report.

2. City staff.

Mr. Lynk advised that he would be out of the office during the following week, but would be available via cell phone and email.

3. Commission members.

Mr. Greene expressed concern with the Commission having so little time to review the Charter and make its recommendations to City Council. Mr. Battin agreed with Mr. Greene and said that the only penalty would be the time constraint. If the Commission was unable to meet the deadline of July 20th, then the recommendations would have to be considered at a special election or at the next federal election. Mr. Weinberg advised that a special election would have a financial impact. There was further discussion on the limited time frame.

Mr. Felix joined the meeting during the discussion.

UNFINISHED BUSINESS:

1. Review and adoption of Charter Review Commission's Rules of Procedures.

Motion by Mr. Delgado, seconded by Ms. DeChristofano, to adopt the Rules of Procedures.

Motion carried with members voting as follows:

Mr. Weinberg	Aye
James Boothroyd	Aye
Donny Felix	Aye
Cynthia Moore	Aye
Kenneth Delgado	Aye
Robert Llewellyn	Nay
Ken Greene	Aye
Maria DeChristofano	Aye
Bill Battin	Aye

NEW BUSINESS:

1. Review and discussion of the City Charter.

Preamble

There were no recommended changes to the Preamble.

Article I. Creation, Powers, and Definitions

Section 1.01. Creation, Powers, and Definitions.

There were no recommended changes to the section.

Section 1.02. Incorporation.

There were no recommended changes to the section. Mrs. Jones explained that the City's boundaries were amended by ordinance and did not require placement on the ballot.

Section 1.03. Extraterritorial Powers.

There were no recommended changes to the section.

Section 1.04. Construction.

There were no recommended changes to the section.

Section 1.05. Succession.

There were no recommended changes to the section.

Section 1.06. Intergovernmental Relations.

There were no recommended changes to the section.

Section 1.07. Corporate Seal.

There were no recommended changes to the section.

Article II. Boundaries

Section 2.01. Description of Boundaries.

There were no recommended changes to the section.

Article III. Legislative

Section 3.01. Form of Government.

There were no recommended changes to the section.

Section 3.02. City Council; Composition.

There were no recommended changes to the section.

Section 3.03. Compensation.

Mrs. Jones advised that the annual salary for the Mayor and each Councilmember was \$8,000 and \$4,000, respectively. Pursuant to the Charter, Council could increase its salary by no more than five percent (5%) in any calendar year. A charter revision was presented to the electorate in 2012 which would have established the compensation for the City Council by ordinance, not to exceed salaries as portrayed by the Florida League of Municipalities of cities of comparable size and form of government. The item was defeated.

Mayor Capote said that the Commission should consider the future and the next generations of elected officials. He felt that the pay should be comparable to the growth of the city. Mr. Delgado asked why the City Council had not increased its salary when it was allowed by the Charter. Mayor Capote said that past Councils felt that, in comparison to the needs of the city, it was not a wise choice and that the voters should make that decision. Mr. Delgado asked if there was any additional compensation provided to City Council. He suggested that the language be revised so that the salary was measured by population. Mr. Weinberg advised that Council received a monthly allotment of \$200 for the Mayor, \$150 for the Deputy Mayor, and \$100 for each Councilmember. Council also received a City-issued cell phone and group insurance. Mr. Greene said that when an individual served on City Council, it should not be for the money. Mr. Battin felt the salary should be proportionate to the ad valorem tax. There was further discussion on compensation. The Commission concurred that Council should receive salary increases. Mr. Weinberg asked that the Commission provide recommended language at the next meeting.

Motion by Mr. Llewellyn, seconded by Ms. DeChristofano, to adjourn. Mr. Battin recommended that the Commission continue its discussion and review of the Charter.

Motion failed with members voting as follows:

Mr. Weinberg	Nay
James Boothroyd	Nay
Donny Felix	Aye
Cynthia Moore	Aye
Kenneth Delgado	Nay
Robert Llewellyn	Aye
Ken Greene	Nay
Maria DeChristofano	Aye
Bill Battin	Nay

Section 3.04. Mayor and Deputy Mayor.

There were no recommended changes to the section.

Mr. Llewellyn said the Charter clearly outlined the duties and responsibilities of the City Manager, City Attorney and City Clerk, but not the City Council. Mrs. Jones advised that Council's powers and duties were delineated in its Policies and Procedures.

Section 3.05. Prohibitions.

Under Subsection 3.053, Ms. DeChristofano felt that the time frame should be increased to two (2) years in order to avoid possible collusion or favors. Mr. Felix agreed.

Motion by Ms. DeChristofano, seconded by Mr. Greene, to amend Subsection 3.053 as follows:

3.053 Holding other office. No former elected city official shall hold any compensated appointive city office or employment until, at least, ~~one (1) year~~ two (2) years after the expiration of the term for which elected.

Motion carried with members voting as follows:

Mr. Weinberg	Aye
James Boothroyd	Aye
Donny Felix	Aye
Cynthia Moore	Aye
Kenneth Delgado	Aye
Robert Llewellyn	Nay
Ken Greene	Aye
Maria DeChristofano	Aye
Bill Battin	Aye

There were no other recommended changes to the section.

ADJOURNMENT:

Motion by Ms. DeChristofano, seconded by Ms. Moore, to adjourn. Motion carried unanimously. The meeting adjourned at approximately 9:01 P.M.

ATTEST:

Philip Weinberg, Chairman

Terese M. Jones, City Clerk

CHARTER REVIEW COMMISSION
Meeting No. 2016-05
July 11, 2016

PROPOSED LANGUAGE/ANSWERS TO QUESTIONS

Pursuant to Meeting No. 2016-03; July 5, 2016

The following language was provided by Chairman Weinberg:

Section 3.03 COMPENSATION

Shall Section 3.03 of the City Charter be revised to establish the compensation for the City Council by ordinance. The salary for the Mayor shall be at the rate of 12 cents per capita and 8 cents per capita for Councilmembers. The per capita numbers utilized shall be the population as of the date of approval of this revision. The annual salary of the Council shall not be increased by more than the increase in the Consumer Price Index, or the annual increase given to City employees, whichever is lower. No increase in salary shall become effective until 6 months after the next regular City election.

Pursuant to Meeting No. 2016-04; July 6, 2016

Section 3.12 CODES OF TECHNICAL REGULATIONS.

The council shall adopt appropriate, standard codes of technical regulations by reference thereto in an adopting ordinance.

Per City staff, this section pertains to the required bi-annual update to the Standard Building Code pursuant to Florida Statutes.

Section 4.01 CITY MANAGER.

4.014 Bond. The city manager shall furnish a surety bond to be approved by the council. The premium of the bond shall be paid by the city. The amount of the bond shall be fixed by the council.

City staff contacted other municipalities within Brevard County and asked if surety or fidelity bonds were required for the City/Town Managers. As of this writing, three (3) municipalities responded and have no such requirement.

Section 5.04 ELECTIONS.

5.042 Elections and terms of office. A primary election and a general election are to be held pursuant to law. The regular or general election of councilmembers shall be held on the first Tuesday after the first Monday of November. Councilmembers shall be elected to a four (4) year term of office and limited to three (3) consecutive four (4) year terms. For the purpose of this limitation, a partial term shall be considered a full term, except for appointments of less than one (1) year. ~~Councilmembers shall not be eligible for reelection to the council for a term immediately succeeding a third consecutive term.~~ No councilmember may appear on the ballot for reelection if by the end of the current term of office, the councilmember will have served (or, but for resignation, would have served) in that office for twelve (12) consecutive years. All councilmembers shall be elected at-large. The mayor and two (2) other councilmembers, Seats 2 and 3, shall be elected in the same year as the presidential election. The two (2) additional councilmembers, Seats 4 and 5, shall be elected in the following even year. Primary Elections shall

be held on the second Tuesday after the first Monday in the month of September.

OR

be held on the Tuesday nine weeks prior to the general election or such other date as established by applicable general law of the state for primary elections.

5.043 Primary Elections.

(a) Should there be more than two (2) qualifying candidates for Mayor or for a given Council seat, their names will be placed on the primary ballot. The two (2) primary candidates receiving the highest number of votes shall be the candidates in the general election. The candidate receiving the highest number of votes in the general election shall be declared elected to the office for which he or she was a candidate. In the event there are fewer than three (3) qualifying candidates for Mayor or for a given Council seat, their names will not appear on the primary election ballot but they will appear on the general election ballot. If a candidate for Mayor or for a given Council seat receives more than fifty percent (50%) of the vote in a primary election, then said candidate shall be declared elected to the office and no names shall appear on the general election ballot.

(b) If a vacancy in candidacy occurs 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, then the qualifying date shall be extended to the latest date for which the general election guidelines may be met. If the elections guidelines cannot be met then the remaining candidate shall be declared the winner.



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The 2016 Florida Statutes

Title XII	Chapter 170	View Entire Chapter
MUNICIPALITIES	SUPPLEMENTAL AND ALTERNATIVE METHOD OF MAKING LOCAL MUNICIPAL IMPROVEMENTS	

- ¹170.01 Authority for providing improvements and levying and collecting special assessments against property benefited.—
- (1) Any municipality of this state may, by its governing authority:
- (a) Provide for the construction, reconstruction, repair, paving, repaving, hard surfacing, rehard surfacing, widening, guttering, and draining of streets, boulevards, and alleys; for grading, regrading, leveling, laying, relaying, paving, repaving, hard surfacing, and rehard surfacing of sidewalks; for constructing or reconstructing permanent pedestrian canopies over public sidewalks; and in connection with any of the foregoing, provide related lighting, landscaping, street furniture, signage, and other amenities as determined by the governing authority of the municipality;
- (b) Order the construction, reconstruction, repair, renovation, excavation, grading, stabilization, and upgrading of greenbelts, swales, culverts, sanitary sewers, storm sewers, outfalls, canals, primary, secondary, and tertiary drains, water bodies, marshlands, and natural areas, all or part of a comprehensive stormwater management system, including the necessary appurtenances and structures thereto and including, but not limited to, dams, weirs, and pumps;
- (c) Order the construction or reconstruction of water mains, water laterals, alternative water supply systems, including, but not limited to, reclaimed water, aquifer storage and recovery, and desalination systems, and other water distribution facilities, including the necessary appurtenances thereto;
- (d) Pay for the relocation of utilities, including the placement underground of electrical, telephone, and cable television services, pursuant to voluntary agreement with the utility, but nothing contained in this paragraph shall affect a utility’s right to locate or relocate its facilities on its own initiative at its own expense;
- (e) Provide for the construction or reconstruction of parks and other public recreational facilities and improvements, including appurtenances thereto;
- (f) Provide for the construction or reconstruction of seawalls;
- (g) Provide for the drainage and reclamation of wet, low, or overflowed lands;
- (h) Provide for offstreet parking facilities, parking garages, or similar facilities;
- (i) Provide for mass transportation systems;
- (j) Provide for improvements to permit the passage and navigation of watercraft; and
- (k) Provide for the payment of all or any part of the costs of any such improvements by levying

and collecting special assessments on the abutting, adjoining, contiguous, or other specially benefited property.

However, offstreet parking facilities, parking garages, or other similar facilities and mass transportation systems must be approved by vote of a majority of the affected property owners. Any municipality which is legally obligated for providing capital improvements for water, alternative water supplies, including, but not limited to, reclaimed water, water from aquifer storage and recovery, and desalination systems, or sewer facilities within an unincorporated area of the county may recover the costs of the capital improvements by levying and collecting special assessments for the purposes authorized in this section on the specially benefited property; however, collections of the special assessment shall not take place until the specially benefited property connects to the capital improvement.

(2) Special assessments may be levied only for the purposes enumerated in this section and shall be levied only on benefited real property at a rate of assessment based on the special benefit accruing to such property from such improvements when the improvements funded by the special assessment provide a benefit which is different in type or degree from benefits provided to the community as a whole.

(3) Any municipality, subject to the approval of a majority of the affected property owners, may levy and collect special assessments against property benefited for the purpose of stabilizing and improving:

- (a) Retail business districts,
- (b) Wholesale business districts, or
- (c) Nationally recognized historic districts,

or any combination of such districts, through promotion, management, marketing, and other similar services in such districts of the municipality. This subsection does not authorize a municipality to use bond proceeds to fund ongoing operations of these districts.

History.—s. 1, ch. 9298, 1923; CGL 3022; s. 1, ch. 59-396; s. 1, ch. 67-552; s. 1, ch. 78-360; s. 32, ch. 79-164; s. 1, ch. 82-198; s. 32, ch. 83-204; s. 1, ch. 83-337; s. 1, ch. 87-103; s. 39, ch. 91-45; s. 1, ch. 92-156; s. 2, ch. 94-344; s. 4, ch. 95-323; s. 2, ch. 2016-89.

¹Note.—Section 2, ch. 2016-89, added subsection (4), effective November 1, 2017, to read:

(4) Notwithstanding any other provision of law, a municipality may not levy special assessments for the provision of fire protection services on lands classified as agricultural lands under s. 193.461 unless the land contains a residential dwelling or nonresidential farm building, with the exception of an agricultural pole barn, provided the nonresidential farm building exceeds a just value of \$10,000. Such special assessments must be based solely on the special benefit accruing to that portion of the land consisting of the residential dwelling and curtilage, and qualifying nonresidential farm buildings. As used in this subsection, the term “agricultural pole barn” means a nonresidential farm building in which 70 percent or more of the perimeter walls are permanently open and allow free ingress and egress.



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The 2016 Florida Statutes

Title XIV	Chapter 197	View Entire Chapter
TAXATION AND FINANCE	TAX COLLECTIONS, SALES, AND LIENS	

197.3632 Uniform method for the levy, collection, and enforcement of non-ad valorem assessments.—

(1) As used in this section:

(a) “Levy” means the imposition of a non-ad valorem assessment, stated in terms of rates, against all appropriately located property by a governmental body authorized by law to impose non-ad valorem assessments.

(b) “Local government” means a county, municipality, or special district levying non-ad valorem assessments.

(c) “Local governing board” means a governing board of a local government.

(d) “Non-ad valorem assessment” means only those assessments which are not based upon millage and which can become a lien against a homestead as permitted in s. 4, Art. X of the State Constitution.

(e) “Non-ad valorem assessment roll” means the roll prepared by a local government and certified to the tax collector for collection.

(f) “Compatible electronic medium” or “media” means machine-readable electronic repositories of data and information, including, but not limited to, magnetic disk, magnetic tape, and magnetic diskette technologies, which provide without modification that the data and information therein are in harmony with and can be used in concert with the data and information on the ad valorem tax roll keyed to the property identification number used by the property appraiser.

(g) “Capital project assessment” means a non-ad valorem assessment levied to fund a capital project, which assessment may be payable in annual payments with interest, over a period of years.

(2) A local governing board shall enter into a written agreement with the property appraiser and tax collector providing for reimbursement of necessary administrative costs incurred under this section. Administrative costs shall include, but not be limited to, those costs associated with personnel, forms, supplies, data processing, computer equipment, postage, and programming.

(3)(a) Notwithstanding any other provision of law to the contrary, a local government which is authorized to impose a non-ad valorem assessment and which elects to use the uniform method of collecting such assessment for the first time as authorized in this section shall adopt a resolution at a public hearing prior to January 1 or, if the property appraiser, tax collector, and local government agree, March 1. The resolution shall clearly state its intent to use the uniform method of collecting such assessment. The local government shall publish notice of its intent to use the uniform method

for collecting such assessment weekly in a newspaper of general circulation within each county contained in the boundaries of the local government for 4 consecutive weeks preceding the hearing. The resolution shall state the need for the levy and shall include a legal description of the boundaries of the real property subject to the levy. If the resolution is adopted, the local governing board shall send a copy of it by United States mail to the property appraiser, the tax collector, and the department by January 10 or, if the property appraiser, tax collector, and local government agree, March 10.

(b) Annually by June 1, the property appraiser shall provide each local government using the uniform method with the following information by list or compatible electronic medium: the legal description of the property within the boundaries described in the resolution, and the names and addresses of the owners of such property. Such information shall reference the property identification number and otherwise conform in format to that contained on the ad valorem roll submitted to the department. The property appraiser is not required to submit information which is not on the ad valorem roll or compatible electronic medium submitted to the department. If the local government determines that the information supplied by the property appraiser is insufficient for the local government's purpose, the local government shall obtain additional information from any other source.

(4)(a) A local government shall adopt a non-ad valorem assessment roll at a public hearing held between January 1 and September 15, or between January 1 and September 25 for any county as defined in s. 125.011(1), if:

1. The non-ad valorem assessment is levied for the first time;
2. The non-ad valorem assessment is increased beyond the maximum rate authorized by law or judicial decree at the time of initial imposition;
3. The local government's boundaries have changed, unless all newly affected property owners have provided written consent for such assessment to the local governing board; or
4. There is a change in the purpose for such assessment or in the use of the revenue generated by such assessment.

(b) At least 20 days prior to the public hearing, the local government shall notice the hearing by first-class United States mail and by publication in a newspaper generally circulated within each county contained in the boundaries of the local government. The notice by mail shall be sent to each person owning property subject to the assessment and shall include the following information: the purpose of the assessment; the total amount to be levied against each parcel; the unit of measurement to be applied against each parcel to determine the assessment; the number of such units contained within each parcel; the total revenue the local government will collect by the assessment; a statement that failure to pay the assessment will cause a tax certificate to be issued against the property which may result in a loss of title; a statement that all affected property owners have a right to appear at the hearing and to file written objections with the local governing board within 20 days of the notice; and the date, time, and place of the hearing. However, notice by mail shall not be required if notice by mail is otherwise required by general or special law governing a taxing authority and such notice is served at least 30 days prior to the authority's public hearing on adoption of a new or amended non-ad valorem assessment roll. The published notice shall contain at least the following information: the name of the local governing board; a geographic depiction of the property subject to the assessment; the proposed schedule of the assessment; the fact that the assessment will be collected by the tax collector; and a statement that all affected property owners have the right to appear at the public hearing and the right to file written objections within 20 days of the publication of the notice.

(c) At the public hearing, the local governing board shall receive the written objections and shall hear testimony from all interested persons. The local governing board may adjourn the hearing from

time to time. If the local governing board adopts the non-ad valorem assessment roll, it shall specify the unit of measurement for the assessment and the amount of the assessment. Notwithstanding the notices provided for in paragraph (b), the local governing board may adjust the assessment or the application of the assessment to any affected property based on the benefit which the board will provide or has provided to the property with the revenue generated by the assessment.

¹(5)(a) By September 15 of each year, or by September 25 for any county as defined in s. 125.011(1), the chair of the local governing board or his or her designee shall certify a non-ad valorem assessment roll on compatible electronic medium to the tax collector. The local government shall post the non-ad valorem assessment for each parcel on the roll. The tax collector shall not accept any such roll that is not certified on compatible electronic medium and that does not contain the posting of the non-ad valorem assessment for each parcel. It is the responsibility of the local governing board that such roll be free of errors and omissions. Alterations to such roll may be made by the chair or his or her designee up to 10 days before certification. If the tax collector discovers errors or omissions on such roll, he or she may request the local governing board to file a corrected roll or a correction of the amount of any assessment.

(b) Beginning in 2009, by December 15 of each year, the tax collector shall provide to the department a copy of each local governing board's non-ad valorem assessment roll containing the data elements and in the format prescribed by the executive director. In addition, beginning in 2008, a report shall be provided to the department by December 15 of each year for each non-ad valorem assessment roll, including, but not limited to, the following information:

1. The name and type of local governing board levying the non-ad valorem assessment;
2. Whether or not the local government levies a property tax;
3. The basis for the levy;
4. The rate of assessment;
5. The total amount of non-ad valorem assessment levied; and
6. The number of parcels affected.

(6) If the non-ad valorem assessment is to be collected for a period of more than 1 year or is to be amortized over a number of years, the local governing board shall so specify and shall not be required to annually adopt the non-ad valorem assessment roll, and shall not be required to provide individual notices to each taxpayer unless the provisions of subsection (4) apply. Notice of an assessment, other than that which is required under subsection (4), may be provided by including the assessment in the property appraiser's notice of proposed property taxes and proposed or adopted non-ad valorem assessments under s. 200.069. However, the local governing board shall inform the property appraiser, tax collector, and department by January 10 if it intends to discontinue using the uniform method of collecting such assessment.

(7) Non-ad valorem assessments collected pursuant to this section shall be included in the combined notice for ad valorem taxes and non-ad valorem assessments provided for in s. 197.3635. A separate mailing is authorized only as a solution to the most exigent factual circumstances. However, if a tax collector cannot merge a non-ad valorem assessment roll to produce such a notice, he or she shall mail a separate notice of non-ad valorem assessments or shall direct the local government to mail such a separate notice. In deciding whether a separate mailing is necessary, the tax collector shall consider all costs to the local government and taxpayers of such a separate mailing and the adverse effects to the taxpayers of delayed and multiple notices. The local government whose roll could not be merged shall bear all costs associated with the separate notice.

(8)(a) Non-ad valorem assessments collected pursuant to this section shall be subject to all collection provisions of this chapter, including provisions relating to discount for early payment, prepayment by installment method, deferred payment, penalty for delinquent payment, and issuance and sale of tax certificates and tax deeds for nonpayment.

(b) Within 30 days following the hearing provided in subsection (4), any person having any right, title, or interest in any parcel against which an assessment has been levied may elect to prepay the same in whole, and the amount of such assessment shall be the full amount levied, reduced, if the local government so provides, by a discount equal to any portion of the assessment which is attributable to the parcel's proportionate share of any bond financing costs, provided the errors and insolvency procedures available for use in the collection of ad valorem taxes pursuant to s. [197.492](#) are followed.

(c) Non-ad valorem assessments shall also be subject to the provisions of s. [192.091\(2\)\(b\)](#), or the tax collector at his or her option shall be compensated for the collection of non-ad valorem assessments based on the actual cost of collection, whichever is greater. However, a municipal or county government shall only compensate the tax collector for the actual cost of collecting non-ad valorem assessments.

(9) A local government may elect to use the uniform method of collecting non-ad valorem assessments as authorized by this section for any assessment levied pursuant to general or special law or local government ordinance or resolution, regardless of when the assessment was initially imposed or whether it has previously been collected by another method.

(10)(a) Capital project assessments may be levied and collected before the completion of the capital project.

(b)1. Except as provided in this subsection, the local government shall comply with all of the requirements set forth in subsections (1)-(8) for capital project assessments.

2. The requirements set forth in subsection (4) are satisfied for capital project assessments if:

a. The local government adopts or reaffirms the non-ad valorem assessment roll at a public hearing held at any time before certification of the non-ad valorem assessment roll pursuant to subsection (5) for the first year in which the capital project assessment is to be collected in the manner authorized by this section; and

b. The local government provides notice of the public hearing in the manner provided in paragraph (4)(b).

3. The local government is not required to allow prepayment for capital project assessments as set forth in paragraph (8)(b); however, if prepayment is allowed, the errors and insolvency procedures available for use in the collection of ad valorem taxes pursuant to s. [197.492](#) must be followed.

(c) Any hearing or notice required by this section may be combined with any other hearing or notice required by this section or by the general or special law or municipal or county ordinance pursuant to which a capital project assessment is levied.

(11) The department shall adopt rules to administer this section.

History.—s. 68, ch. 88-130; s. 7, ch. 88-216; s. 8, ch. 90-343; s. 2, ch. 91-238; s. 1013, ch. 95-147; s. 1, ch. 97-66; s. 1, ch. 2003-70; s. 10, ch. 2008-173; s. 13, ch. 2016-128.

¹Note.—Section 13, ch. 2008-173, provides that:

“(1) The executive director of the Department of Revenue is authorized, and all conditions are deemed met, to adopt emergency rules under ss. 120.536(1) and 120.54(4), Florida Statutes, for the purpose of implementing this act.

“(2) Notwithstanding any other provision of law, such emergency rules shall remain in effect for 18 months after the date of adoption and may be renewed during the pendency of procedures to adopt rules addressing the subject of the emergency rules.”



July 8, 2016

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Title XXIX	Chapter 403	View Entire Chapter
PUBLIC HEALTH	ENVIRONMENTAL CONTROL	

403.0893 Stormwater funding; dedicated funds for stormwater management.—In addition to any other funding mechanism legally available to local government to construct, operate, or maintain stormwater systems, a county or municipality may:

(1) Create one or more stormwater utilities and adopt stormwater utility fees sufficient to plan, construct, operate, and maintain stormwater management systems set out in the local program required pursuant to s. [403.0891\(3\)](#);

(2) Establish and set aside, as a continuing source of revenue, other funds sufficient to plan, construct, operate, and maintain stormwater management systems set out in the local program required pursuant to s. [403.0891\(3\)](#); or

(3) Create, alone or in cooperation with counties, municipalities, and special districts pursuant to the Interlocal Cooperation Act, s. [163.01](#), one or more stormwater management system benefit areas. All property owners within said area may be assessed a per acreage fee to fund the planning, construction, operation, maintenance, and administration of a public stormwater management system for the benefited area. Any benefit area containing different land uses which receive substantially different levels of stormwater benefits shall include stormwater management system benefit subareas which shall be assessed different per acreage fees from subarea to subarea based upon a reasonable relationship to benefits received. The fees shall be calculated to generate sufficient funds to plan, construct, operate, and maintain stormwater management systems called for in the local program required pursuant to s. [403.0891\(3\)](#). For fees assessed pursuant to this section, counties or municipalities may use the non-ad valorem levy, collection, and enforcement method as provided for in chapter 197.

History.—s. 16, ch. 86-186; s. 34, ch. 89-279.