

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

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

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### DIVISION 1. GENERALLY

#### Sec. 9-81. Definitions.

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

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

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

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

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

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

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

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

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

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

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

*Water system* means any plant, system, facility or property and additions, extensions and improvements thereto at any future time constructed or acquired as part thereof, useful or necessary or having the present capacity for future use in connection with the development of sources, treatment or purification and distribution of water for domestic or industrial use and, without limiting the generality of the foregoing, includes dams,

reservoirs, storage tanks, mains, lines, valves, pumping stations, laterals and pipes for the purpose of carrying water to the premises connected with such system, and all real and personal property and any interests therein, rights, easements and franchises of any nature whatsoever relating to any such system and necessary or convenient for the operation thereof.

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

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

**Cross references:** Rules of construction and definitions generally, § 1-2.

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

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

Description of a tract of land in Township 34S, Range 28E, Highlands County, Florida, being in Sections 4, 5, 6, 7, 8, 9, 16, 17 and 18, together with that portion of Sections 3, 10 and 15, lying westerly of the west right-of-way line of U.S. Highway 27, less the NW3 of the SE 3 of said Section 4; less also that portion of said Section 15 platted as Fairmont Mobile Estates as recorded in Plat Book 9, Page 12 of the Public Records of Highlands County, Florida, more particularly described as follows: Commence at the northwest corner of Section 6, Township 34S, Range 28E, for a point of beginning and run thence S 89°55'21.2" E, along the north boundary of said Section 6, 5,295.52'; thence N 89°57'27.4" E, along the north boundary of said Section 5, 5,302.54' thence N 89°50'49.4" E, along the north line of said Section 4, 5,296.38'; thence S 89°45'59" E, along the north line of said Section 3, 940.91' to a point on the westerly right-of-way line of U.S. Highway 27; thence along said westerly right-of-way line, S 18°02'00" E, 14,202.74' to the northeast corner of said Fairmont Mobile Estates; thence along the northerly line of said Fairmont Mobile Estates, S 58°32'45" W, 1,619.91'; thence continue along the westerly boundary of said Fairmont Mobile Estates, S 00°11'45" W, 1,867.10' to a point on the south boundary of said Section 15; thence N 89°57'15" W, 3,941.80'; thence continue N 89°57'15" W, 15,935.76' to the southwest corner of said Section 18; thence N 00°02'53" W, along the west boundary of said Section 18, 5,355.12'; thence N 00°23'31.4" E, along the west boundary of said Section 7, 5,256.45'; thence N 00°01'24.7" E along the west boundary of said Section 6, 5,583.02' to the point of beginning. Less the following: All the lands in Sections 6, 7, and 18, Township 34 South, Range 28 East, in Highlands County Florida lying west of the West R/W lines of Balboa Boulevard and Cayuga Drive, as shown on the plats of Sun 'n Lake Estates of Sebring,

Unit 10, Plat Book 9, page 60, Unit 14, Plat Book 9, page 73, Unit 21, Plat Book 10, page 34 of the Public Records of Highlands County, Florida, and the lands lying west of the west property line of Lot 153 Block 446 of said Unit 21 and it's southerly prolongation to the south R/W line of Zoreta Drive. (5791.01 acres more or less)  
(Ord. No. 74-4, § 1; Ord. No. 83-11, § 1; Ord. No. 02-03-18, § 1)

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

Whenever any election shall be authorized or required by this article to be held by the landowners at any particular or stated time or day, and if for any reason such election is not held at such time or on such day, then in such event the power or duty to hold such election shall not cease or lapse, but such election shall be held thereafter when practicable, and in accordance with the procedures provided by this article.  
(Ord. No. 74-4, § 3(10))

Sec. 9-84. Landowners' meetings.

(a) *Notice.* The board of supervisors shall provide for the giving of notice of all meetings of landowners by publication once a week for two consecutive weeks prior to such meeting in a newspaper or newspapers published or of general circulation in the county.

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

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

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

(1) Filling any vacancy on the board of supervisors remaining unfilled for more than 30 days after such vacancy occurs;

(2) Recalling any supervisor theretofore elected or designated and filling such vacancy for the unexpired term; or

(3) Taking any other action by the landowners of the district.

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

(e) *Adjournment upon lack of quorum.* If no quorum is present or represented at a meeting of the landowners at the time and place the same is called to be held, the landowners present and represented, although less than a quorum, may adjourn to another

time or day, and at such or any subsequent adjourned meeting may, if a quorum is then present or represented, take any action that the landowners could have taken at the meeting or meetings so adjourned for lack of a quorum.

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

(g) *Written consent of landowners in lieu of meeting.* Any action required or that may be taken at a meeting of the landowners may be taken, without a meeting or notice of meeting being given, upon the written consent of all of the landowners.

(Ord. No. 74-4, § 4; Ord. No. 02-03-18, § 2)

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

(a) The board of supervisors shall designate a person who is a resident of the state, or a bank or trust company organized under the laws of the state, as treasurer of the district, who shall have charge of the funds of the district. Such funds shall be disbursed only upon the order of or pursuant to the resolution of the board of supervisors by warrant or check signed by the treasurer, or by such other person as may be authorized by the board of supervisors.

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

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

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

(e) The board of supervisors may employ a fiscal agent, who shall be either a resident of the state or a corporation organized under the laws of this or any other state and authorized by such laws to act as such fiscal agent for municipal corporations in the state and who shall assist in the keeping of tax books, the collection of taxes and the remitting of funds to pay maturing bonds and coupons and perform such other or additional services and duties as fiscal agent and receive such compensation as the board of supervisors may determine.

(Ord. No. 74-4, § 6; Ord. No. 95-9, § 1)

Sec. 9-86. Powers of district--Generally.

The district shall have the following powers:

- (1) *Legal proceedings.* To sue and be sued by its name in any court of law or in equity.
- (2) *Corporate seal.* To adopt and use a corporate seal and to alter the same at pleasure.
- (3) *Ownership and disposition of property.* To acquire property, real, personal or mixed, within or without its territorial limits, in fee simple or any lesser interest or estate, by purchase, gift, devise or lease, on such terms and conditions as the board of supervisors may deem necessary or desirable, all provided that the use or ownership of such property is necessary in the furtherance of a designated lawful purpose authorized under the provisions of this article and amendments thereto, and further provided that if the district acquires property from the Highlands County Title and Guaranty Land Company the district may acquire such property at the cost of the property to the company, and provided further that property may be acquired without the territorial limits of the district only if it is to further the purposes of providing water, sewer and sanitation for the district; to acquire mineral rights and leases; to acquire title to submerged lands and riparian rights and easements or rights-of-way with or without restrictions within or without the limits of the district; to accept the dedication of streets and other rights-of-way on such terms and conditions as the board of supervisors may approve; to make purchase money mortgages and deed trusts and other forms of encumbrance on any property acquired by the district and to purchase property subject to purchase money mortgages, or other encumbrances; and to mortgage, hold, manage, control, convey, lease, sell, grant or otherwise dispose of the same, and of any of the assets and properties of the district, with or without consideration.
- (4) *Lease of facilities.* Whenever deemed necessary or desirable by the board of supervisors, to lease as lessor or lessee to or from any person, firm, corporation, association or body, public or private, any projects of the type that the district is authorized to undertake and facilities or property of any nature for the use of the district and to carry out any of the purposes of the district, subject to the limitations of section 9-152.
- (5) *Clearing; reclamation; irrigation.* To adopt a plan of reclamation for the purpose of clearing, excavating, draining and irrigating lands within the district, and to own, acquire, construct, reconstruct, equip, operate, maintain, extend and improve systems and works for such purposes.
- (6) *Water and sewer systems.* To own, acquire, construct, reconstruct, equip, operate, maintain, extend and improve water systems and sewer systems or combined water and sewer systems; to regulate the use of sewers and the supply of water within the district and to prohibit or regulate the use and maintenance of outhouses, privies, septic tanks or other sanitary structures or appliances within the district; to prescribe methods of pretreatment of wastes not amenable to treatment with domestic sewage before accepting such wastes for treatment and to refuse to accept such wastes when not sufficiently pretreated as may be prescribed and to prescribe penalties for the refusal of any person or corporation to so pretreat such wastes; to sell or otherwise dispose of the effluent, sludge or other byproducts as a result of sewage treatment; and to construct and operate connecting, intercepting or outlet sewers and sewer mains and pipes and water mains, conduits or pipelines in, along or under any streets, alleys, highways or other public

places or ways within or without the district, when deemed necessary or desirable by the board of supervisors in accomplishing the purposes of this article.

(7) *Issuance of bonds.* To issue general obligation bonds, revenue bonds, assessment bonds or any other bonds or obligations authorized by the provisions of this article or any other law, or any combination of the foregoing, to pay all or part of the cost of the acquisition, construction, reconstruction, extension, repair, improvement, maintenance or operation of any project or combination of projects, to provide for any facility, service or other activity of the district and to provide for the retirement or refunding of any bonds or obligations of the district, or for any combination of the foregoing purposes.

(8) *Industrial aid.* To exercise all the powers conferred upon local agencies by F.S. § 159.26 et seq. to finance the development within the district of industrial or manufacturing projects.

(9) *Storage sites; office building.* To acquire and maintain appropriate sites for storage and maintenance of the equipment of the district; to acquire and maintain and construct a suitable building to house the office and records of the district.

(10) *Recreation facilities.* To own, acquire, construct, operate and maintain parks, playgrounds, picnic grounds, camping facilities, water recreation facilities, golfing and tennis facilities and other recreational facilities of all kinds within the district.

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

(12) *Other powers.* In addition to the powers specifically provided in this article, the district shall have the power to exercise through its board of supervisors all powers necessary, convenient or proper to carry out the purposes of this article.

(13) [*Mosquito control.*] To provide a program of mosquito control within the district. (Ord. No. 74-4, 8; Ord. No. 77-4, § 3(A), (B); Ord. No. 83-11, § 5)

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

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

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

The district may require all lands, buildings and premises, and all persons, firms and corporations, within the district or within any zone or area within such district created for such purpose, to use the water and sewer systems of the district. Subject to such exceptions as may be provided by the resolutions, rules or bylaws of the board of supervisors, and subject to the terms and provisions of any resolution authorizing any bonds and agreements with bondholders, no water and sewer systems shall be constructed

or operated within the district unless the board of supervisors gives its consent thereto and approves the plans and specifications therefor. The violation of the foregoing user requirements shall be and constitute a misdemeanor and any person convicted in a court of competent jurisdiction of violating the same shall be subject to the penalties provided by F.S. § 125.69 and amendments thereto.  
(Ord. No. 74-4, § 11)

Sec. 9-89. Same--Maintenance of projects across rights-of-way.  
The district shall have the power to construct and operate its projects in, along or under any streets, alleys, highways or other public places or ways.  
(Ord. No. 74-4, § 12)

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

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

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

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

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

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

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

(1) To provide for all expenses of operation and maintenance of such facility or service including reserves for such purpose;

(2) To pay when due all bonds and interest thereon for the payment of which such revenues are, or shall have been, pledged or encumbered, including reserves for such purpose; and

(3) To provide for any other funds which may be required under the resolution or resolutions of the district authorizing the issuance of bonds pursuant to this article.

(g) The board of supervisors shall have the power to enter into contracts for the use of the services and facilities furnished or to be furnished by the district, with the landowners and others within or without the district, for such consideration and on such other terms and conditions as the board of supervisors may approve. Such contracts shall not be subject to the provisions and limitations of this section, but shall not be entered into for a period longer than 30 years from the effective date thereof and shall be fair and reasonable in relation to the rates, fees, rentals or other charges to be paid by other users of the facilities and services concerned. No hearing or notice thereof shall be required prior to the authorization or execution by the board of supervisors of any such contract, and the same shall not be subject to revision except in accordance with their terms. Such contracts and any revenues or service charges received or to be received by the district thereunder may be pledged as security for any of the bonds of the district.

(Ord. No. 74-4, § 13; Ord. No. 02-03-18, § 3)

#### Sec. 9-91. Same--Discontinuance of service.

In the event that the rates, fees, rentals or other charges for any services and facilities of the district are not paid when due, the board of supervisors shall have the power to discontinue and shut off the same until such rates, fees, rentals or other charges, including interest, penalties and charges for the shutting off and discontinuance and the restoration of such services and facilities are fully paid, and for such purposes may enter on any lands and premises of any person, firm or corporation. Such delinquent rates, fees, rentals or other charges, together with interest, penalties and charges for the shutting off and discontinuance and the restoration of such services and facilities, and reasonable attorneys' fees and other expenses, may be recovered by the district by suit in any court of competent jurisdiction. The district may also enforce payment of such delinquent rates, fees, rentals or other charges by any other lawful method of enforcement.

(Ord. No. 74-4, § 14)

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

The district shall have the power to enter into agreements with any person, firm or corporation for the furnishing within the district by such person, firm or corporation of any facilities and services of the type provided for herein, for or on behalf of the district to persons, firms, corporations and other public or private bodies and agencies to whom the district is empowered hereunder to furnish facilities and services, and the district may

by agreement join with any publicly or privately owned utility plant or system in furnishing any of the facilities or services of the district.  
(Ord. No. 74-4, § 15)

Sec. 9-93. Tax exemption.

As the exercise of the powers conferred by this article to effect the purposes of this article constitutes the performance of essential public functions, and as the projects of the district will constitute public property used for public purposes, all assets and properties of the district, and all bonds issued hereunder and interest paid thereon, and all fees, charges and other revenues derived by the district from the projects provided for hereby shall be exempt from all taxes by the state or by any political subdivision, agency or instrumentality thereof; provided, however, that nothing herein shall be deemed to exempt from taxation any property, project, facility, business activity or enterprise that cannot validly be undertaken as a public function by special taxing districts or other public bodies under the laws and constitution of the state.

(Ord. No. 74-4 § 38)

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

Any action required under this article to be taken on notice to the landowners of the district and on public hearing for the purpose of receiving and passing on objections by landowners may be taken without such notice or hearing upon the written consent of all of the landowners affected by such action.

(Ord. No. 74-4, § 39)

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

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

- (1) After the creation of the district, a certified list of the purchasers and a description of the property purchased shall be included among the records of the board of supervisors.
- (2) These purchasers shall not be required to pay the costs of paved roads and drainage as long as they continue to hold their agreement for deed in good standing or thereafter become a landowner for that parcel of property that they originally agreed to purchase and accept title for.
- (3) All charges against the property for paved roads and drainage shall be paid for by Highlands County Title and Guaranty Land Company.

(Ord. No. 74-4, § 45)

Sec. 9-96. Fiscal year.

The board of supervisors has the power to establish and from time to time redetermine the fiscal year of the district. Unless the board of supervisors otherwise provides, the district shall be on a calendar fiscal year.

(Ord. No. 74-4, § 46)

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

Anything herein to the contrary notwithstanding, the respective officials of the county or of any agency or authority of the county having powers and duties pertaining to zoning, building and construction codes, planning as to land use and the subdivision of land, regulation of building safety, regulation of plumbing and electrical installations, sanitary codes, the approval and vacating of plats and subdivisions and the regulation of subdivisions shall have full power and jurisdiction within the area comprising the district with respect to all powers, duties, authority and responsibilities granted such agencies by law.

(Ord. No. 74-4, § 47)

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

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

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

(c) Competitive bidding shall not be required for purchases or improvements costing less than \$10,000.00.

(d) Exceptions. In the event that the purchase price of the item to be purchased is in excess of \$10,000.00 and the item can be purchased under a state or federal general services administration contract or from the lowest and best bidder under a competitive bidding process of another governmental entity, including a county, school board, or other municipality, which bid process was completed within 12 months prior to the purchase, or in the event that the item is available only from one supplier, the requirement of competitive bidding herein shall not apply.

(Ord. No. 74-4, § 48; Ord. No. 83-11, § 7; Ord. No. 92-8, § 1; Ord. No. 96-11, § 1)

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

This article is full authority for the establishment of district projects and district finances. The board of supervisors shall have exclusive jurisdiction and control over all of the projects of the district and over the budget and finances of the district, including without limitation expenditures and appropriations, except to the extent otherwise provided herein

and except to the extent that the board of supervisors may by agreement with any person, firm, corporation or other public or private body authorize the same to exercise jurisdiction or control over any of the projects of the district.

(Ord. No. 74-4, § 16)

Sec. 9-100. Reserved.

**Editor's note:** Ord. No. 02-03-18, § 4, repealed § 9-100 in its entirety. Formerly, said section pertained to administrative costs as enacted by Ord. No. 77-4, section 3(G).

Sec. 9-101. Liberal construction.

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

(Ord. No. 74-4, § 50)

Secs. 9-102--9-105. Reserved.

## DIVISION 2. BOARD OF SUPERVISORS

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

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

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

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

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

time of the election. The district shall not be entitled to cast a vote for any land and/or subdivided lots owned by the district in any election of a member of the board of supervisors of the district.

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

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

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

(1) For supervisors occupying a seat elected by landowner election, the procedure specified in section 9-84 of this chapter shall be adhered to.

(2) For supervisors occupying a seat elected by popular vote, a petition shall be prepared naming the person sought to be recalled and containing a statement of grounds for recall in not more than 200 words limited solely to the following grounds:

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

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

(Ord. No. 74-4, § 3(1)--(4); Ord. No. 83-11, §§ 3, 4; Ord. No. 93-19, § 2; Ord. No. 02-03-18, § 5)

Sec. 9-107. Filling of vacancies.

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

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

- (1) The next annual meeting of the landowners, when a successor to such appointee shall be elected by the landowners for the unexpired term; or
  - (2) The election by the landowners of a successor to such appointee for the unexpired term, at a special meeting of the landowners called for such purpose at any time upon written request of the landowners as provided in section 9-84.
  - (c) In the event any vacancy in the office of any supervisor elected by the landowners remains unfilled for more than 30 days after such vacancy occurs, it may be filled by vote of the landowners at a meeting of landowners called for such purpose, and the person so elected shall replace any person who may have been elected by the remaining supervisor or supervisors after the landowners have made a written request for such an election as provided in section 9-84.
  - (d) If any vacancy occurs in a seat occupied by a supervisor elected by the qualified electors, the remaining members of the board of supervisors shall, within 45 days after the vacancy occurs, appoint a person who would be eligible to hold the office to the unexpired term.
- (Ord. No. 74-4, § 3(5); Ord. No. 02-03-18, § 6)

Sec. 9-108. Organization; seal.

As soon as practicable after each election, the board of supervisors of the district shall organize by choosing one of their number president of the board of supervisors and by electing a secretary, who need not be a member of the board. The board of supervisors shall adopt a seal which shall be the seal of the district.

(Ord. No. 74-4, § 3(6))

Sec. 9-109. Quorum.

A majority of the members of the board of supervisors shall constitute a quorum.

(Ord. No. 74-4, § 3(7))

Sec. 9-110. Annual report.

At each annual meeting of the landowners of the district the board of supervisors shall report all work undertaken or completed during the preceding year and the status of the finances of the district.

(Ord. No. 74-4, § 3(8))

Sec. 9-111. Records.

The board of supervisors shall keep a permanent record book entitled "Record of Governing Board of Sun 'n Lake of Sebring Improvement District," in which shall be recorded minutes of all meetings, resolutions, proceedings, certificates, bonds given by all employees and any all [sic] corporate acts, which book shall at reasonable times be opened to public inspection. Such record book shall be kept at an office or other regular place of business maintained by the board of supervisors in the county.

(Ord. No. 74-4, § 3(9))

Sec. 9-112. Compensation of members.

Each supervisor shall be entitled to receive \$2,400.00 per year for services performed pertaining to the district. Each supervisor shall further be entitled to reasonable traveling

expenses, not in excess of the rates allowed for government employees pursuant to § 112.061, Florida Statutes, and other out-of-pocket expenses when incurred on preapproved district business. Such expenses shall not be in excess of the amounts provided by law for state and county officials.  
(Ord. No. 74-4, § 5; Ord. No. 02-03-18, § 7)

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

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

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

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

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

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

(7) Examine, and authorize any officer or agent of the district to examine, the county tax rolls with respect to the assessed valuation of the real and personal property within the district.

(Ord. No. 74-4, § 7)

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

The board of supervisors of the district shall have the power and is hereby authorized in its discretion to accomplish any project authorized by this article, by designated areas or parts of the district, to be called "phases." The board of supervisors shall have the power to fix, determine and alter the location, area and boundaries of lands to be included in each and all such phases, the order of development thereof and the method of carrying on the work in each phase. It shall not be necessary that an area or areas designated as a phase or as phases for the purpose of the development of one type of project authorized by this article must also be an area or areas for the phase development of any other project authorized by this article. If the board of supervisors shall determine that it is advisable to develop the work of a project in the district by phases, as authorized by this section, the board shall, by resolution, declare its purpose to conduct such work accordingly and shall fix the number, location and boundaries of and description of lands within the phase in which it proposes to proceed and give such phase an appropriate number or name. Unless the board of supervisors by resolution otherwise provides, all assessments, levies, taxes, bonds and other obligations made, levied, assessed or issued for or in respect to any such phase or phases shall be a lien and charge solely and only upon the lands in such phase or phases, respectively, for the benefit of which the same shall be levied, made or issued and not upon the remaining phases or lands in the district.

(Ord. No. 74-4, § 10)

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

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

(Ord. No. 74-4, § 40; Ord. No. 02-03-18, § 8)

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

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

(1) Direct obligations of or obligations guaranteed by the United States of America or for the payment of the principal and interest of which the faith and credit of the United States is pledged;

(2) Bonds or notes issued by any of the following federal agencies: Bank for Cooperatives; Federal Intermediate Credit Banks; Federal Home Loan Bank System; Federal Land Banks; or the Federal National Mortgage Association (including debentures or participating certificates issued by such association);

(3) Public housing bonds issued by public housing authorities and secured by a pledge of annual contributions under an annual contribution contract or contracts with the United States of America;

(4) Bonds or other interest-bearing obligations of any county, district, city or town located in the state for which the full faith and credit of such political subdivision is pledged; or

(5) Any investment authorized for insurers by F.S. §§ 625.306 through 625.316, inclusive, and amendments thereto.

(Ord. No. 74-4, § 42)

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

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

Sec. 9-126. General obligation bonds.

The district shall not have the power to issue general obligation bonds.

(Ord. No. 74-4, § 24; Ord. No. 02-03-18, § 9)

Sec. 9-127. Revenue bonds.

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

(b) Any two or more projects may be combined and consolidated into a single project, and may thereafter be operated and maintained as a single project. The revenue bonds authorized herein may be issued to finance any one or more such projects separately, or to finance two or more such projects, regardless of whether or not such projects have been combined and consolidated into a single project. If the board of supervisors deems it advisable, the proceedings authorizing such revenue bonds may provide that the district may thereafter combine the projects then being financed or theretofore financed with other projects to be subsequently financed by the district, and that revenue bonds to be thereafter issued by the district shall be on parity with the revenue bonds then being issued, all on such terms, conditions and limitations as shall be provided, and may further provide that the revenues to be derived from the subsequent projects shall at the time of the issuance of such parity revenue bonds be also pledged to the holders of any revenue bonds theretofore issued to finance the revenue undertakings which are later combined with such subsequent project. The district may pledge for the security of the revenue bonds a fixed amount, without regard to any fixed proportion of the gross revenues of any project.

(Ord. No. 74-4, § 25; Ord. No. 02-03-18, § 10)

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

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

(Ord. No. 74-4, § 26; Ord. No. 02-03-18, § 11)

Sec. 9-129. Refunding revenue bonds.

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

(Ord. No. 74-4, § 27; Ord. No. 02-03-18, § 12)

Sec. 9-130. Pledging assessments and other revenues as security on revenue bonds.

The board of supervisors may provide that revenue bonds shall be payable, in whole or in part, as to both principal and interest, and as to any reserve or other funds provided therefor, from assessments levied on the real property in the district. The board of supervisors may also provide with respect to any revenue bonds of the district that such revenue bonds shall be payable, in whole or in part, as to both principal and interest, and as to any reserve or other funds provided therefor, out of rates, fees, rentals or other charges collected with respect to any of the projects of the district. The district by resolution of the board of supervisors may also pledge as security for any revenue bonds the revenues from any project of the district, assessments, and any other sources of revenues or funds, or any combination of the foregoing, and such pledge shall not require the submission to or approval by the qualified electors of the district unless required by the constitution of the state.

(Ord. No. 74-4, § 28; Ord. No. 02-03-18, § 13)

Sec. 9-131. Lien of pledges.

All pledges of revenues, taxes and assessments made pursuant to the provisions hereof shall be valid and binding from the time when such pledges are made. All such revenues, taxes and assessments so pledged and thereafter collected shall immediately be subject to the lien of such pledges without any physical delivery thereof or further action, and the lien of such pledges shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the district, irrespective of whether such parties have notice thereof.

(Ord. No. 74-4, § 29)

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

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

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

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

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

(e) If all of the owners of the lots and parcels of property to be assessed shall consent in writing to the terms of any proposed assessment as stated in the resolution of the board

of supervisors adopted pursuant to F.S. § 170.03, and as shown on the preliminary assessment roll prepared pursuant to F.S. § 170.06, then the district shall not be required to publish such resolution in the manner provided by F.S. § 170.05, or otherwise, nor shall any hearing be required to be held by the board of supervisors as provided in F.S. § 170.07. A final assessment roll may be established by resolution of the board of supervisors based upon such written consent of all of the owners of the lots and parcels to be assessed.

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

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

(Ord. No. 74-7, § 30; Ord. No. 77-4, § 3(D); Ord. No. 83-11, § 6; Ord. No. 89-1, § 3B; Ord. No. 02-03-18, § 14)

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

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

such indemnifying bonds or to pledge such securities as may be required by the district. Such resolution or trust agreement may set forth the rights and remedies of the bondholders and of the trustees, if any, and may restrict the individual right of action by bondholders. The board of supervisors may provide for the payment of the proceeds of the sale of the bonds and the revenues of any project to such officer, board or depository as it may designate for the custody thereof, and for the method of disbursement thereof with such safeguards and restrictions as it may determine. All expenses incurred in carrying out the provisions of such resolution or trust agreement may be treated as part of the cost of operation of the project to which such trust agreement pertains.

(Ord. No. 74-4, § 31)

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

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

- (1) The money paid for the bonds.
- (2) The principal amount, plus accrued interest to the date of redemption or exchange, of outstanding obligations exchanged for refunding bonds.
- (3) In the case of special assessment or revenue bonds, the amount of any indebtedness to contractors or other persons paid with such bonds, or the fair value of any properties exchanged for the bonds, as determined by the board of supervisors.

(Ord. No. 74-4, § 32; Ord. No. 77-4, § 3(E))

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

Bonds may be authorized by resolution or resolutions of the board of supervisors which shall be adopted by a majority of all of the members thereof then in office. Such resolution or resolutions may be adopted at the same meeting at which they are introduced, and need not be published or posted. The board of supervisors may by resolution authorize the issuance of bonds, fix the aggregate amount of bonds to be issued, the purpose or purposes for which the moneys derived therefrom shall be expended, the rate or rates of interest, which shall not exceed the legal rate per annum, the denomination of the bonds, whether or not the bonds are to be issued in one or more series, the date or dates thereof, the date or dates of maturity, which shall not exceed 30 years from their respective dates of issuance, the medium of payment, the place or places within or without the state where payment shall be made, registration privileges, redemption terms and privileges (whether with or without premium), the manner of execution, the form of the bonds, including any interest coupons to be attached thereto,

the manner of execution of bonds and coupons, and any and all other terms, covenants and conditions thereof, and the establishment of reserve or other funds. Such authorizing resolution may further provide that such bonds may be executed manually or by engraved, lithographed or facsimile signature, provided that where signatures are engraved, lithographed or facsimile no bond shall be valid unless countersigned by a registrar or other officer designated by appropriate resolution of the board of supervisors. The seal of the district may be affixed, lithographed, engraved or otherwise reproduced in facsimile on such bonds. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. (Ord. No. 74-4, § 33; Ord. No. 02-03-18, § 15)

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

Pending the preparation of definitive bonds, the board of supervisors may issue interim certificates or receipts or temporary bonds, in such form and with such provisions as the board of supervisors may determine, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The board of supervisors may also provide for the replacement of any bonds which shall become mutilated or be lost or destroyed.

(Ord. No. 74-4, § 34)

Sec. 9-137. Negotiability of bonds.

Any bond issued hereunder and any interim certificate, receipt or temporary bond shall, in the absence of an express recital on the face thereof that it is nonnegotiable, be fully negotiable and shall be and constitute negotiable instruments within the meaning and for all purposes of the law merchant and the laws of the state.

(Ord. No. 74-4, § 35)

Sec. 9-138. Covenant.

Any resolution authorizing the issuance of bonds may contain such covenants as the board of supervisors may deem advisable and all such covenants shall constitute valid and legally binding and enforceable contracts between the district and the bondholders, regardless of the time of issuance thereof. Such covenants may include, without limitation, covenants concerning the disposition of the bond proceeds, the use and disposition of project revenues, the pledging of revenues, taxes and assessments, the obligations of the district with respect to the operation of the project and the maintenance of adequate project revenues, the issuance of additional bonds, the appointment, powers and duties of trustees and receivers, the acquisition of outstanding bonds and obligations, restrictions on the establishing of competing projects or facilities, restrictions on the sale or disposal of the assets and property of the district, the priority of assessment liens, the priority of claims by bondholders on the taxing power of the district, the maintenance of deposits to assure the payment of revenues by users of district facilities and services, the discontinuance of district services by reason of delinquent payments, acceleration upon default, the execution of necessary instruments, the procedure for amending or abrogating

covenants with the bondholders and such other covenants as may be deemed necessary or desirable for the security of the bondholders.

(Ord. No. 74-4, § 36)

Sec. 9-139. Pledge by county.

Highlands County hereby pledges to the holders of any bonds issued under this article that it will not, by a mandatory county ordinance or otherwise, limit or alter the rights of the district to own, acquire, construct, reconstruct, improve, maintain, operate or furnish the projects or to levy and collect the taxes, assessments, rentals, rates, fees and other charges provided for herein and to fulfill the terms of any agreement made with the holders of such bonds or other obligations, that it will not in any way impair the rights or remedies of the holders, and that it will not modify in any way the exemption from taxation provided herein, until all such bonds together with interest thereon, and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully met and discharged.

(Ord. No. 74-4, § 37)

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

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

(Ord. No. 74-4, § 43; Ord. No. 89-1, § 3)

Sec. 9-141. Shortterm borrowing.

The district at any time may obtain loans, in such amount and on such terms and conditions as the board may approve, for the purpose of paying any of the expenses of the district or any costs incurred or that may be incurred in connection with any of the projects of the district, which loans shall have a term not exceeding two years from the date of issuance thereof, and may be renewable for a like term or terms, shall bear such interest as the board may determine, not to exceed ten percent per annum, and may be payable from and secured by a pledge of such funds, revenues, taxes and assessments as the board may determine, for the purpose of defraying such costs and expenses, the district may issue negotiable notes, warrants or other evidences of debt signed on behalf of the district by any one of the board duly authorized by the board, such notes or other

evidences of indebtedness to be payable at such times, to bear such interest as the board may determine not to exceed ten percent per annum, and to be sold or discounted at such price or prices and on such terms as the board may deem advisable. The board shall have the right to provide for the payment thereof by pledging the whole or any part of the funds, revenues, taxes and assessments of the district. The approval of the qualified electors who are freeholders residing in the district shall not be necessary except where required by the state constitution.

(Ord. No. 74-4, § 44)

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

#### DIVISION 4. TAXATION

Sec. 9-151. Reserved.

**Editor's note:** Ord. No. 02-03-18, § 16, repealed § 9-151 in its entirety. Formerly, said section pertained to ad valorem taxes; authority to levy, as enacted by Ord. No. 74-4, § 17.

Sec. 9-152. Reserved.

**Editor's note:** Ord. No. 02-03-18, § 17, repealed § 9-152 in its entirety. Formerly, said section pertained to ad valorem taxes; determining property values, as enacted by Ord. No. 74-4, § 19.

Sec. 9-153. Maintenance assessments.

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

(b) Such maintenance assessment may be assessed on a flat rate basis, calling for an equal assessment upon each lot or parcel assessed, as shall from time to time be determined by the board of supervisors, upon a finding by such board as to which basis, or combination thereof, shall be most equitable and fair under the circumstances and upon consideration of the special benefits resulting from such maintenance and preservation of the improvements of the district or any part thereof.

(Ord. No. 74-4, § 18; Ord. No. 77-4, § 3(C), (F); Ord. No. 02-03-18, § 18)

Sec. 9-154. Reserved.

**Editor's note:** Ord. No. 02-03-18, § 19, repealed § 9-154 in its entirety. Formerly, said section pertained to collection; tax discounts, as enacted by Ord. No. 74-4, § 20; as amended.

Sec. 9-155. Service charge liens.

All special assessments provided for herein, together with all penalties for default in payment of the same and all costs in collecting the same, including a reasonable attorney's fee fixed by the court and taxed as costs in the action brought to enforce payment, shall, from January first for each year the property is liable to assessment and until paid, constitute a lien of equal dignity with the liens for state and county taxes and other taxes of equal dignity with state and county taxes upon all the real and personal property against which such taxes shall be levied. A sale of any of the real property within the district for state and county or other taxes shall not operate to relieve or release the property so sold from the lien for subsequent district assessments, or installments of district assessments, which lien may be enforced against such property as though no such sale thereof had been made. The collection of these assessments shall be carried out in the same manner as prescribed by the general law of the state for the collection of county and school taxes.

(Ord. No. 74-4, § 21; Ord. No. 02-03-18, § 20)

Sec. 9-156. Foreclosure of liens.

Any lien in favor of the district arising under this article may be foreclosed by a suit brought in the name of the district in the circuit court. The pleadings, process, practice and sales in such proceedings shall be the same as in actions for the foreclosure of mortgages upon real property. One or more parcels of land may be included in the same suit. In any foreclosure action filed by the district pursuant to this section, the district may join as a party defendant the county for the purpose of determining the amount of their respective tax liens. When the county is so joined in such a foreclosure action, the judicial sale held in such action shall operate to satisfy all county tax liens to the date of such sale, and the net proceeds of such sale shall be applied first against delinquent state and county taxes and thereafter against delinquent district taxes on the property affected. The judgment of the court in any such foreclosure action shall operate to quiet title to the property that is the subject of the action.

(Ord. No. 74-4, § 22)

Sec. 9-157. Payment of taxes and redemption of tax liens by the district; sharing in proceeds of tax sale under F.S. § 197.542.

(a) The district has the right to:

- (1) Pay any delinquent state, county, district, municipal or other tax or assessment upon lands located wholly or partially within the boundaries of the district; and
- (2) Redeem or purchase any tax sales certificate issued or sold on account of any state, county, district, municipal or other taxes or assessments upon lands located wholly or partially within the boundaries of the district.

(b) Delinquent taxes paid, or tax sales certificates redeemed or purchased by the district, together with all penalties for the default in payment of the same and all costs in collecting the same and a reasonable attorney's fee, shall constitute a lien in favor of the district of equal dignity with the liens of state and county taxes and other taxes of equal dignity with state and county taxes, upon all the real property against which such taxes were levied. The lien of the district may be foreclosed in the manner provided herein.

(c) In any sale of land pursuant to F.S. § 197.542 and amendments thereto, the district may certify to the clerk of the circuit court of Highlands County the amount of taxes due

to the district upon the lands sought to be sold, and the district shall share in the disbursement of the sales proceeds in accordance with the provisions hereof and under law.

(Ord. No. 74-4, § 23)

Secs. 9-158--9-166. Reserved.