TITLE III. - FINANCE AND TAXATION[1]

CHAPTERS

Footnotes:

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Cross reference— Departments enumerated, § 2-4-3.

State Law reference— Municipal finance and taxation, F.S. § 166.201 et seq.; municipal fiscal year, F.S. §§ 166.241, 218.33; municipal borrowing, F.S. § 166.101 et seq.; financial matters pertaining to political subdivisions, F.S. Ch. 218.

CHAPTER 3-1. GENERAL PROVISIONS

Sec. 3-1-1. - Finance director.

The mayor with the consent of council may appoint a finance director who may serve as comptroller, treasurer, and plan administrator for all deferred compensation plans and all nonqualified pension plans. The finance directormay serve as plan or fund administrator and chief administrative officer for all qualified pension plans except as otherwise provided by law. The finance director may have charge of the financial services department as well as administration of the financial affairs of the city, including the keeping and supervision of all accounts, the levy, assessment and collection of taxes and other revenue, the making and collection of special assessments, the custody and disbursement of city funds and monies, the control over expenditures, and such other duties as the mayor may provide.

(Laws of Fla. 1931, Ch. 15425, § 28; Ord. No. 17-98, § 1, 5-28-98; Ord. No. 48-98, § 1, 9-24-98; Ord. No. 26-99, § 6, 7-22-99; Ord. No. 16-10, § 26, 9-9-10)

Cross reference— Administrative organization, Ch. 2-4.

Sec. 3-1-2. - Financial reports.

The finance director shall be charged with keeping and supervising the accounts for all departments and offices of the city. Provision shall be made for adequate recording of all cash receipts and disbursements, all revenues accrued and all liabilities incurred, as well as all transactions affecting the acquisition, custody and disposition of municipal properties and values. Financial reports shall be prepared for each quarter and fiscal year and for such other periods as may be required by the mayor. Those reports shall be submitted by the mayor to the council.

(Laws of Fla. 1931, Ch. 15425, § 29; Ord. No. 17-98, § 1, 5-28-98; Ord. No. 16-10, § 27, 9-9-10)

Sec. 3-1-3. - Taxes and monies received.

All taxes and monies received by any officer or employee of the city, or in connection with the business of the city, shall be paid promptly into the treasury and shall be deposited with responsible banking institutions in compliance with the council's adopted investment policy designated by the council in accordance with such regulation and subject to such requirements as to security therefor and interest thereon as the council may establish. All money so deposited shall accrue to the benefit of the city.

(Laws of Fla. 1931, Ch. 15425, § 30; Ord. No. 17-98, § 1, 5-28-98; Ord. No. 16-10, § 28, 9-9-10)

State Law reference— Security for public deposits, F.S. Ch. 280; investment of funds, F.S. § 166.261.

Sec. 3-1-3.5. - Insurance, risk management and loss prevention.

Subject to the provisions of subsection 1-1-1(c), the finance director shall review, monitor and make recommendations concerning city policy and administration in the subjects of insurance, risk management and loss prevention, shall maintain all records pertaining to claims, losses and insurance policies, shall supervise and coordinate the preparation of insurance specifications for contracts, shall assist in negotiating settlements of losses and make recommendations with regard thereto, and shall perform such other duties prescribed by the mayor.

(Ord. No. 26-99, § 3, 7-22-99; Ord. No. 16-10, § 29, 9-9-10)

Sec. 3-1-3.6. - Insurance purchases and insurance claim payments.

(a) The mayor is authorized to pay claims without city council approval under any one of the following circumstances:

The payment of the claim is required by law.

The payment of the claim is controlled by language specified in an insurance policy.

The claim amount is within the mayor's purchasing authority.

All other payments for claims must be approved by city council.

(b) The mayor is authorized to purchase insurance coverages that are required by Florida Statutes or by City Code or that fall within the mayor's purchasing authority. In addition, the mayor is authorized to purchase insurance policies that are either routine, cover unusual risk factors, for which a premium increase is primarily based on inflation, or for which the market is extremely limited.

(Ord. No. 32-10, § 1, 12-16-10)

Sec. 3-1-4. - Claims; accounts.

No claim against the city may be paid except by a method authorized by the finance director. Accounts shall be kept by the department of financial services, showing the financial transactions of all departments and offices of the city.

(Laws of Fla. 1931, Ch. 15425, § 31; Ord. No. 17-98, § 1, 5-28-98; Ord. No. 26-99, § 6, 7-22-99; Ord. No. 16-10, § 30, 9-9-10)

Sec. 3-1-5. - Reserved.

Editor's note— Ord. No. 16-10, § 31, adopted Sept. 9, 2010, repealed § 3-1-5, which pertained to "budget estimate." See also the Code Comparative Table.

REPEAL SECTION 3-1-6.

State Law reference— Determination of millage and budget adoption procedure, F.S. Ch. 200.

Sec. 3-1-7. - Expenditures.

No money shall be drawn from the treasury of the city, nor shall any obligation for the expenditure of money be incurred, except pursuant to appropriations made by the council.

(Laws of Fla. 1931, Ch. 15425, § 38)

Sec. 3-1-8. - Payment of claims.

Subject to the provisions of subsection 1-1-1(c), no claim against the city shall be paid except those certified by the director of the appropriate department, and by means authorized by the finance director. The finance director shall cause to have examined all payrolls, bills and other claim and demands against the city and shall issue no payment unless he finds that the claim is in proper form, correctly computed and duly certified; and that it is justly and legally due and payable, that an appropriation has been made therefor which has not been exhausted, and that the payment has been otherwise legally authorized; and that there is money in the city treasury to make payment. He may require any claimant to make oath to the validity of a claim. He may investigate any claim, and for that purpose may examine witnesses under oath, and if he finds a claim to be fraudulent, erroneous or otherwise invalid, he shall not issue payment therefor.

(Laws of Fla. 1931, Ch. 15425, § 44; Ord. No. 17-98, § 1, 5-28-98; Ord. No. 16-10, § 32, 9-9-10)

Sec. 3-1-9. - Requirements for issuance of bonds.

(a) *Procedures and requirements.*

(1) The city council of the city shall have the power to provide by resolution for the issuance and sale of revenue or excise tax bonds and certificates or any other bonds or certificates not secured by ad valorem taxation, so as to provide money to finance the acquisition, construction, improvement and operation of any utility, facility, enterprise, work, undertaking or project which the city is authorized by law to acquire, construct, improve or operate, or for any other municipal purpose or purposes, and to provide that the bonds and certificates and interest thereon shall be payable from the revenues to be derived by the city from the operation of the same or a combination of any or all of the utilities, facilities, enterprises, works, undertakings or projects, or from any other sources of pledged security except ad valorem taxes. The resolution may be adopted at a regular or special meeting by a majority vote of the council and at the same meeting at which it is introduced, to take effect immediately upon its passage, subject to mayoral veto. It is determined and declared as a matter of legislative intent that no election to authorize the issuance of the bonds or certificates shall be necessary. No other proceedings or procedures of any character whatever shall be necessary or required for the issuance of the bonds or certificates by the city. The words "revenue bonds" and "revenue certificates" and "excise tax bonds" and "excise tax certificates" are used interchangeably herein, and the provisions applicable to one are applicable to the other.

(2) Any and all revenue or excise tax bonds or certificates issued by the city pursuant to this section shall be special obligations of the city and shall be payable from and secured by a lien upon the revenue of the enterprise or other pledged security as more fully described in the resolution adopted, having due regard to the cost of operation and maintenance of the enterprise, and the amount or proportion, if any, of the revenue of the enterprise previously pledged. The city may by resolution pledge for the security of the bonds or certificates a fixed amount, without regard to any fixed proportion of the gross revenue of the enterprise.

(3) No recourse shall be had for the payment of the revenue bonds or excise tax bonds or certificates, or any interest thereon or any part thereof, against funds of the city realized from ad valorem taxes. The bonds or certificates and interest thereon shall not be a debt of the city nor a charge, lien or encumbrance, legal or equitable, upon the property of the city or upon any income, receipts, excise taxes, franchise fees or revenues of the municipality other than the revenues as shall have been pledged to the payment thereof, and every bond or certificate shall recite in substance that the bond or certificate, including interest thereon, is payable solely from the revenues pledged to the payment thereof, and that the municipality is under no obligation to pay the same except from the revenues.

(4) The city may issue bonds payable solely out of revenues which may be derived from a particular project or projects, or may issue bonds payable from utilities services taxes, franchise fees or payments, or any excise or service tax which it may be authorized to impose, or a combination of either or all of such sources of revenue or unpledged revenue from any source; except that full faith and credit bonds or general obligation bonds, payable from unlimited ad valorem taxes, may not be issued unless authorized by vote of the electors of the city in the manner provided by law.

(5) The city may, in addition to the other powers herein conferred, insert provisions in any resolution authorizing the issuance of such revenue or excise tax bonds or certificate which shall be a part of the contract with the holders of the revenue bonds or certificates, in the following respects:

a. Limitations on the purpose to which the proceeds of sale of any issue of bonds or certificates may be applied;

b. Limitations on the issuance and on the lien of additional bonds, certificates or obligations to finance the extension, addition or improvement of the enterprise which are secured by or payable from the revenues of the enterprise;

c. Limitations on the right of the city or its governing body to restrict and regulate the use of the enterprise;

d. Pledging all or any part of the revenues of the enterprise to which its right then exists or rights which may thereafter come into existence;

e. The city may avail itself of any right, power or authority to issue bonds granted to municipalities from time to time by the provisions of Florida Statutes.

(6) The foregoing provisions of this section shall constitute full and complete authority for the issuance of the bonds and certificates herein authorized, and no procedures or proceedings, publications, notices, consents, approvals, orders, acts or things by the council or any board, officer, commission or department of the city, other than those required by this section, shall be required to issue any bond or certificate or to do or perform any act, except as shall be required by this section.

(7) Bonds, certificates or other obligations of any type or character authorized and issued by the city may bear an interest rate within the discretion of the council. There shall be no maximum limitation on the interest rate, except that the interest rate shall be based on the good faith judgment of the council after receiving advice from the mayor, city financial officials, fiscal agents and bond attorneys employed by the city.

(b) *Power to combine utilities, enterprises.* The council shall have power by resolution to combine any or all of its municipally owned utilities or other revenue-producing enterprises or undertakings for the purposes of the construction, extension, improvement, operation or financing thereof.

(Laws of Fla. 1931, Ch. 15425; Laws of Fla., Ch. 59-1725, § 1; Laws of Fla., Ch. 70-885, § 1; Ord. No. 16-10, § 33, 9-9-10)

State Law reference— Municipal borrowing, F.S. § 166.101 et seq.; municipal finance and taxation, F.S. § 166.201 et seq.; maximum rate of interest, F.S. § 215.84; bond information, notice, sale, etc., F.S. §§ 218.37, 218.38, 218.385.

Sec. 3-1-9.1. - Reserved.

Editor's note— Ord. No. 32-02, § 1, enacted Oct. 10, 2002, repealed § 3-1-9.1 in its entirety. Formerly, said section pertained to investment of city funds; authorization, as adopted by Ord. No. 20-85, § 1, enacted June 13, 1985.

Sec. 3-1-11. - Service fee for dishonored checks.

There shall be assessed a service fee of twenty dollars ($20.00) or five (5) percent of the amount of the check, draft, or order, whichever is greater, for the collection of a dishonored check, draft or other order for the payment of money to the city or any official or agency of the city or such other amount as may be authorized by F.S. § 166.251, as said statute may be amended from time to time. The service fee shall be in addition to all other penalties imposed by law. Proceeds from this fee shall be retained by the collector of the fee.

(Ord. No. 52-89, § 1, 10-5-90; Ord. No. 16-92, § 1, 6-25-92)

Sec. 3-1-12. - Reserved.

Editor's note— Ord. No. 16-10, § 34, adopted Sept. 9, 2010, repealed § 3-1-12, which pertained to "Liability of director of finance for unauthorized payments." See also the Code Comparative Table.

Sec. 3-1-13. - Council reserve (general fund).

Effective January 12, 2017, a minimum reserve of twenty (20) percent of the general fund beginning adopted appropriations (expenditure budget) should be incrementally established and maintained for use in meeting unanticipated needs and/or emergencies.

(1) *Use of council reserve.* Council reserves shall be used only after all efforts have been exhausted to fund unanticipated needs and/or emergencies, such as implementing a modified hiring freeze and expenditure reductions. Once the mayor has determined that it is necessary to draw down council reserves, written communication should be provided by the mayor to city council, explaining the nature of the unanticipated need and/or emergency and requires approval by a two-thirds (2/3) vote of city council. Use of funds may only be initiated when current fiscal year revenues decrease by five (5) percent or more of the total adopted beginning estimated revenues, including transfers. A maximum of fifty (50) percent of the shortfall or fifty (50) percent of the prior fiscal year ending council reserve balance may be drawn, whichever is less. At no time may the reserve be less than seven and one-half (7.5) percent of adopted

annual appropriations or half of the prior fiscal year ending council reserve balance, whichever is greater. The council reserve may not be used for more than two (2) consecutive years.

(2) *Replenishment of council reserve.* If the reserves are drawn down below the minimum required level of twenty (20) percent, then a budgetary plan shall be implemented to return the reserve to a minimum twenty (20) percent level in no more than a five-year period. The progress of replenishment should be reported in the annual budget.

(3) *Funding of council reserves.* Proceeds from the sale of city (general government) owned surplus real property, specifically approved by city council for such purpose, and any other funds identified in the annual budget (and any amendments thereto) will be used to increase the reserve. Interest earnings will be applied on the reserve balance each fiscal year.

(Ord. No. 39-14, § 1, 10-9-14; Ord. No. 04-17, § 1, 3-9-17)

CHAPTER 3-2. PUBLIC WORKS AND IMPROVEMENTS[2]

Footnotes:

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Cross reference— Competitive bid for contracts for public works and purchase of material and supplies, § 3-3-2; leisure services, Title VI; buildings and building regulations, Ch. 7-13; public enterprises and utilities, Title X.

State Law reference— Supplemental and alternative procedure for making local improvements, F.S. Ch. 170; municipal public works, F.S. Ch. 180.

Sec. 3-2-1. - Powers of city; fixing fees and charges for utility services.

In addition to powers which it may now have, the city shall have power under this chapter:

(1) To construct, repair, extend or acquire extensions and improvements to the existing natural gas systems and other utility systems, and all other facilities now owned and operated or hereafter acquired by the city, including but not limited to facilities for the storage, transmission or distribution of natural gas, storage tanks, distributing mains and pipes, meters, valves and equipment, within or without the territorial boundaries of the city, and to acquire in the name of the city, by gift, purchase or the exercise of the right of eminent domain, lands or rights in land in connection therewith and any other property, real or personal, tangible or intangible, necessary, desirable or convenient in connection with the construction, operation or management of the utility systems and other facilities, and to hold and dispose of all real and personal property under its control.

(2) To construct, repair, extend and improve and make improvements to the public streets and thoroughfares of the city; and to acquire, construct, alter, repair and improve all public buildings, property, improvements and all other facilities, including recreational parks and playgrounds, now existing or hereafter to be acquired, belonging to the city and used and dedicated to municipal and public purposes and lying within or without the city limits of the city, and to acquire in the name of the city, by gift, purchase or the exercise of the right of eminent domain, lands or rights in lands or water rights in connection therewith and any other property, furnishings and equipment, real or personal, tangible or intangible, necessary, desirable or convenient in connection with the construction, operation or management, extension and improvement of the public streets, public buildings, property and all other facilities, including recreational parks and playgrounds.

(3) To employ, and to enter into agreements or contracts with, consultants, advisors, engineers, architects, managers or fiscal or other experts, for the planning, preparation, construction, supervision, management, operation and financing of natural gas systems and other utility

systems, and such public streets and thoroughfares, public buildings, property, improvements, recreational and other facilities, now existing or hereafter to be acquired, or any part thereof, upon the terms and conditions as to compensation and otherwise as the city shall deem desirable and proper.

(4) To prescribe, fix, establish and collect fees, rentals or other charges for the facilities, services and privileges furnished by natural gas systems and other utility systems, and public buildings, property, improvements, recreational and other facilities, or any part thereof, whether heretofore or hereafter constructed or acquired, upon any equitable basis; provided, however, that the fees, rentals or other charges or any revision thereof shall be fixed and established by resolution of the council of the city only after a public hearing has been held thereon and notice of the public hearing shall have been published at least once at least ten (10) days prior thereto in a newspaper published in the city.

(Laws of Fla. 1931, Ch. 26138, § 1)

Cross reference— Energy services, Ch. 10-4.

REPEAL SECTION 3-2-2.

REPEAL SECTION 3-2-3.

REPEAL SECTION 3-2-4.

REPEAL SECTION 3-2-5.

REPEAL SECTION 3-2-6.

REPEAL SECTION 3-2-7.

Sec. 3-2-8. - Same—Taxing of public utility services.

(a) The city, in order to pay the principal and interest on any revenue bonds issued pursuant to this chapter, and any reserve or other payments required by the provisions of the resolution or other proceedings authorizing the issuance of the revenue bonds or certificates, is hereby given the right, power and authority, by nonemergency ordinance, to impose, levy and collect on all public utility services a tax to be paid by the purchaser of the services, the tax to be in addition and supplemental to any utilities services taxes and/or excise taxes heretofore authorized by the Charter of the city or by any special act by the state relating to the city or a general law of the state, now in effect or which might hereafter be authorized, for the payment of revenue bonds or certificates issued pursuant to this chapter, and to increase the rate of taxation now existing for those purposes, and to pledge the net proceeds of the additional utilities services taxes and/or excise taxes for the payment of the principal of and interest on any revenue bonds issued pursuant to this chapter, as provided in section 3-2-6(3).

(b) The powers provided for in this section shall be permissive and not mandatory, and the city may issue revenue bonds as provided in this chapter without exercising the powers provided in this section. In the event the city shall elect to exercise the powers provided in this section and pledge such utilities services taxes and/or excise taxes or any portion thereof for such revenue bonds or certificates as provided in section 3-2-6(3), then the limitations provided in section 3-2-9 shall apply.

(Laws of Fla. 1949, Ch. 26138, § 10)

Sec. 3-2-9. - Same—Excise taxes on utilities to continue until bonds or certificates are paid.

Notwithstanding any other law, general or special, now or hereafter enacted, the city shall not have the right to repeal or rescind any utility tax ordinance or resolution imposing excise taxes pledged to the payment of principal or interest on any of the special tax revenue certificates or bonds issued hereunder, and any such utility tax or excise tax shall automatically continue in force, until there shall be a sufficient sum of money on hand to pay the principal and interest on all outstanding bonds or certificates for which the taxes were pledged. Notwithstanding any other law, general or special, now or hereafter enacted, the city shall not have the right to reduce any of the rates or amounts of such municipal utilities taxes or excise taxes pledged to the payment of principal or interest of bonds or certificates, or grant exemptions from the payment of the taxes (except to the extent, within the limitations and in the manner that might be reserved in the resolution authorizing the bonds or certificates), as long as any bonds or certificates issued hereunder are outstanding and funds sufficient for payment of the principal and interest thereof are not on hand.

(Laws of Fla. 1949, Ch. 26138, § 6)

Sec. 3-2-10. - Same—Deemed to constitute legal investments.

Notwithstanding any provisions of any other law or laws to the contrary, all revenue bonds or certificates, including refunding revenue bonds or certificates, issued pursuant to this chapter, shall constitute legal investments for savings banks, banks, trust companies, executors, administrators, trustees, guardians and other fiduciaries, and for any board, body, agency or instrumentality of the state or of any county, municipality or other political subdivision of the state.

(Laws of Fla. 1949, Ch. 26138, § 11)

Sec. 3-2-11. - Special assessments.

(a) The city may levy or cause to be levied, to the extent and in the manner provided by law, special assessments against the premises, lands and real estate specially benefited by the construction or acquisition of repairs, extensions or improvements to the natural gas systems, public streets and thoroughfares and other utility systems, directly or indirectly, and regardless of whether or not the premises, lands and real estate abut upon the streets or lands upon which the natural gas systems or other utility systems or parts thereof are located or are repaired, extended or improved, provided the land is especially benefited. The special assessments shall be made, levied and collected in the mode and manner provided under the applicable laws of the state.

(b) The city may pledge the amounts collected from any special assessments levied pursuant to this section to the payment of the principal of and the interest on any revenue bonds or other obligations issued pursuant to this chapter. All collections of the special assessments pledged as provided herein shall be paid over to the appropriate fund or funds for revenues of the utility system for the construction, acquisition, extension, repair or improvement of which the special assessment was levied, and shall be deemed to be treated as other revenues derived from the system; provided, however, that no holder or holders of revenue bonds or other obligations issued pursuant to this chapter, and for which the proceeds from the special assessments have been pledged shall ever have the right to foreclose or require the foreclosure of the lien of any such special assessment upon any land, premises or real estate.

(Laws of Fla. 1949, Ch. 26138, § 9)

Sec. 3-2-11.1. - Proration of costs to be paid by city and abutting property owners specially benefiting from special assessment projects.

(a) Whenever the city council of the city chooses to construct an improvement in the City of Pensacola, the subject matter of which is proper for the levy of special assessments for the purpose of assessing property to be specially benefited by such improvements, and, whenever the city council chooses to use the front footage method of levying said special assessments, and provided that the city council has separately determined by resolution that the property owners to be assessed will be specially benefited by the proposed improvement, the method of prorating the costs of the improvement shall be as provided in subsection (b) hereof.

(b) Whenever a special assessment project is undertaken by the city council as indicated in subsection (a) hereof, the abutting property owners shall be assessed an amount of twenty (20) percent of the cost of the project as further defined by resolution at the time the project is implemented and the city shall pay sixty (60) percent of the cost of the improvements.

(c) The provisions of this section shall not preclude the city council from choosing a different lawful method of assessing costs of any improvement or of not using a special assessment program with regard to any particular improvement if the city council deems that to be in the best interest of the city.

(Ord. No. 44-85, §§ 1—3, 12-19-85)

Editor's note— Ord. No. 44-85, §§ 1—3, enacted Dec. 19, 1985, being not specifically amendatory of the Code, has been included herein as § 3-2-11.1, at the discretion of the editor.

Sec. 3-2-12. - Rates, fees, rentals and charges to produce revenues.

The council may prescribe and collect reasonable rates, fees, rentals or charges for the services and use of utility systems, public buildings, property and other facilities, and shall revise the rates, fees, rentals or charges from time to time whenever necessary. The rates, fees, rentals or charges prescribed shall be such as will produce revenues, together with any other pledged funds, at least sufficient:

(1) To provide for all expenses of operation and maintenance and renewal of such utility systems, including reserves therefor;

(2) To pay, when due, all revenue bonds or certificates and interest thereon for the payment of which the revenue is or shall have been pledged or encumbered, including reserves therefor; and

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

(Laws of Fla. 1949, Ch. 26138, § 5)

Sec. 3-2-13. - Revenues and obligations to be tax exempt.

So long as the city shall own and operate public utility systems, public buildings, properties and recreational facilities, all property of and all revenue derived therefrom, including all parts thereof heretofore or hereafter constructed or acquired, shall be exempt from all taxation by the state or by any county, municipality or any other political subdivision thereof. Revenue bonds or other obligations, including refunding revenue bonds, issued pursuant to this chapter, shall, together with the income therefrom, be exempt from all taxation by the state or any county, municipality or other political subdivision thereof.

(Laws of Fla. 1949, Ch. 26138, § 12)

CHAPTER 3-3. PURCHASING

ARTICLE I. - IN GENERAL

REPEAL SECTION 3-3-1.

Sec. 3-3-2. - Contracts for public work and purchases of other commodities and services; lowest and best responsible bidder; rejection of bids; approval of council and mayor; emergency purchases.

(a) Definitions.

(1) *Commodity* means any of the various supplies, materials, equipment, goods, merchandise and all other personal property purchased, leased or otherwise contracted for by the city.

(2) *Invitation to bid* means a written solicitation for sealed competitive bids with the title, date, and hour of the public bid opening designated and specifically defining the commodity, group of commodities or services for which bids are sought. It includes instructions prescribing all conditions for bidding and shall be distributed to all prospective bidders simultaneously. The invitation to bid is normally used when the city is capable of specifically defining the scope of work for which a contractual service is required or when the city is capable of establishing precise specifications defining the actual commodity or group of commodities required.

(3) *Request for proposals* means a written solicitation for sealed proposals with the title, date, and hour of the public opening designated. The request for proposals is normally used when it would be difficult for the city to specifically define the scope of work for which the commodity, group of commodities, or contractual service is required and when the city is requesting that a qualified vendor propose a commodity, group of commodities or contractual service to meet the needs of the city. A request for proposals should include, but is not limited to, general information, applicable laws and rules, functional or general specifications, statement of work, proposed instructions, and evaluation criteria. Requests for proposals should state the relative importance of price and any other evaluation criteria.

(b) Purchases of commodities and services. The purchase of commodities and services that have been specifically adopted in the annual budget within a program of a department, division, office or similar or appropriated by council may be contracted for or purchased by the mayor without further action of council. Subject to the authority granted in subsections (c) and (d), below, regarding tier one city certified small business enterprises, the purchase of or contracting for commodities or services in an amount exceeding twenty-five thousand dollars ($25,000.00), that has not been specifically adopted in the annual budget or appropriated by council, must be approved by council prior to purchase or contract. All contracts for commodities or services that exceed a term of three years shall be approved by the city council.

(c) Public works and improvements. Any public work or improvement may be executed either by contract, or by direct labor, as may be determined by the council; if the cost does not exceed twenty-five thousand dollars ($25,000.00), or does not exceed one-hundred thousand dollars ($100,000.00) if contracting with a tier one city certified small business enterprise (SBE), the mayor may make the determination. Before authorizing the direct execution of any work or improvement costing more than twenty-five thousand dollars ($25,000.00), or one hundred thousand dollars ($100,000.00) if contracting with a tier one city-certified small business enterprise (SBE), detailed plans and estimates shall be submitted to the council by the mayor unless the council does not require same. Contracts for public work in excess of twenty-five thousand dollars ($25,000.00), or one hundred thousand dollars ($100,000.00) if contracting with a tier one city-certified small business enterprise (SBE), shall be signed by the mayor after approval thereof by the city council. When the invitation to bid procedure is utilized, contracts for all such works or improvements at an estimated cost in excess of twenty-five thousand dollars ($25,000.00), or one-hundred thousand dollars ($100,000.00) if

contracting with a tier one city certified small business enterprise (SBE) or more shall be awarded to the lowest and best responsible bidder after such public advertisement and competition as may be prescribed by ordinance and there shall be a separate accounting for each work or improvement so executed. The mayor shall have the authority to reject all bids and advertise again. Contract advertisements shall contain a reservation of the foregoing right.

(d) The mayor has the authority to award all contracts for the purchase of commodities and services with a value not in excess of twenty-five thousand dollars ($25,000.00), or one-hundred thousand dollars ($100,000.00) if contracting with a tier one city certified small business enterprise (SBE) without competitive bids. Whenever the purchase of commodities or services with an estimated cost in excess of twenty-five thousand dollars ($25,000.00), or one-hundred thousand dollars ($100,000.00) if contracting with a tier one city certified small business enterprise (SBE) is contemplated by the city, the council shall reserve the option to utilize the invitation to bid procedure, request for proposals, informal quotes or to authorize the mayor to negotiate, depending upon which alternative is deemed by the council to be in the best interest of the city.

(e) The mayor shall have the authority to make emergency purchases for commodities and/or services without competitive bids under circumstances where the delay incident to giving opportunity for competitive bidding would be detrimental to the interest of the city; all such purchases shall be reported to the city council at its next regularly scheduled meeting.

(f) Nothing contained herein shall be construed to prevent the city from purchasing commodities and/or services under the provisions of state purchasing contracts pursuant to F.S. § 287.042(2), as the same may be amended from time to time, from vendors at federal contract prices, and from any vendor so long as purchases are at or below listed state/federal contract price; from contracts of other municipal governments or other governmental agencies or political subdivisions providing the vendor extends the same terms and conditions of the contract to the city; or from purchasing specialized items from sole source vendors without competitive bids.

(g) The mayor is hereby authorized to enter into any contract for services or make purchases of commodities that do not exceed twenty-five thousand dollars ($25,000.00), or one-hundred thousand dollars ($100,000.00) if contracting with a tier one city certified small business enterprise (SBE), in any twelve-month period. The twelve-month period limitation applies to the purchase of commodities or services from a single vendor for the same project.

(h) All purchases are subject to availability of funds in the city's budget.

(Laws of Fla. 1931, Ch. 15425, § 40; Laws of Fla. 1955, Ch. 31162, § 1; Laws of Fla., Ch. 73-591; Ord. No. 33-81, § 1, 8-13-81; Ord. No. 48-87, § 1, 11-19-87; Ord. No. 53-90, § 1, 10-19-90; Ord. No. 34-96, § 1, 8-8-96; Ord. No. 31-97, § 1, 9-11-97; Ord. No. 02-06, § 1, 1-12-06; Ord. No. 09-09, § 1, 4-9-09; Ord. No. 09-10, § 1, 4-8-10; Ord. No. 16-10, § 36, 9-9-10; Ord. No. 18-14, § 1, 4-24-14; Ord. No. 19-14, § 1, 5-8-14)

Cross reference— Public works and improvements, Ch. 3-2.

Sec. 3-3-3. - Contractual liability.

No liability shall be enforceable against the city upon any contract not supported by previous appropriation, nor shall the city be liable for any service, material or supplies furnished to the city or any department, office or division thereof, the financial requirements of which are to be met out of the proceeds of taxes or of any other funds controlled by the council, unless the council shall previously have made the appropriation therefor. In the event that contracts are made to extend over a period longer than one year and are to be met from current receipts of the city, it shall be lawful for the council to make appropriations sufficient to answer the requirements of any such contracts for only one (1) year, and the contract shall be legal and binding upon the city notwithstanding no appropriation has been made for the ensuing years over which it is to be operative, and it shall be the duty of the council to make

appropriations from year to year as required for the purpose of the contracts. The obligations of the city under the contracts shall not be considered to be part of the indebtedness of the city. The continuing contracts shall not be legal unless authorized by a vote of eight (8) members of the council.

(Laws of Fla. 1931, Ch. 15425, § 42)

Sec. 3-3-4. - Small business enterprise program.

(1) *Small business enterprise (SBE) policy.* The policy of the city is to create economic opportunities for certified local area small business enterprises (hereinafter referred to as "SBE") by establishing a program providing for the encouragement of such enterprises to compete for contracts and subcontracts for goods, services, and construction purchased by and for the city. This policy is to be implemented in conjunction with section 3-3-1 of the Code and with the purchasing policy and procedures manual, without sacrificing cost effectiveness based on the lowest and best responsible bidder criteria. It is further the policy of the city, to ensure that all segments of the community, including minority-owned and women-owned business establishments, have an effective opportunity to participate in the city's purchasing program. In furtherance of this goal, the city's policy is to require necessary information from prospective contractors and suppliers of goods and services regarding their minority-owned or women-owned status and that of any subcontractors involved in bids on city business.

(2) *Mayor authority.* The mayor is hereby authorized to establish a program for the purchasing and contracting activities of the city, directed toward providing economic opportunities to local area certified small business enterprises where practical and feasible. The program which is authorized by this section shall include the following elements:

(a) Definitions:

1. *Tier one (1) small business* means an independently owned and operated business concern which employs fifteen (15) or fewer permanent full-time employees, and which has a net worth of not more than one million dollars ($1,000,000.00). As applicable to sole-proprietorships, the one million dollars ($1,000,000.00) net worth shall include both personal and business investments. Goods and services provided by tier one (1) small businesses may be purchased under the mayor's spending authority up to one hundred thousand dollars ($100,000.00).

2. *Tier two (2) small business* means an independently owned and operated business concern which employs fifty (50) or fewer permanent full-time employees, and which has a net worth of not more than one million dollars ($1,000,000.00). As applicable to sole-proprietorships, the one million dollars ($1,000,000.00) net worth shall include both personal and business investments.

3. *Certified small business enterprise* means a business that has been certified by the City of Pensacola, the Florida Department of General Services, or another governmental agency to be a certified small business enterprise.

4. *Small business joint venture* is a joint business association of small businesses and non small business firms. The small business firms shall receive a share of contract dollars proportionate to the percentage participation it represents in the joint venture.

5. *Purchasing policy* are those rules and procedures adopted by the city which govern, without exception, all purchases made by and for the city.

6. *Local area* means that geographic area within the boundaries of Escambia County and Santa Rosa County, Florida.

7. Participation goal is the percentage goal as determined by the contract coordinator for a specific project based on review of specifications and available certified SBE firms.

(b) Reserved.

(c) The program to be developed and implemented by the mayor may have applicability to all purchasing and contracting, including, but not limited to, formal bidding, competitive bidding, and direct purchases by the city.

(d) In the development and implementation of this program, the mayor may review all feasible sources of small business enterprise participation in city contracting and purchasing programs and to develop a pool of available concerns to be utilized. The mayor mayalso be authorized to evaluate each contracting and purchasing opportunity and to establish a participation goal utilizing available small business enterprises to be required of all potential bidders, contractors, or suppliers. In evaluating competitive bids, the mayor maymake a determination and so recommend to council regarding whether or not a bidder has either met the established participation goal or has demonstrated good faith efforts towards meeting such goal. In the event that a bidder is determined by city council, upon the recommendation of the mayor to not have met an established participation goal and not have evidenced sufficient good faith efforts towards meeting such goal, the city council may determine that such bid was nonresponsive.

(e) The mayor may require prospective bidders or contractors to supply such information as the mayor may require pertaining to the minority-owned or women-owned status of the bidder or contractor, or of any subcontractor involved in the project. This information may be collected and monitored by the mayor for purposes of determining the extent of participation by such firms in the city's contracting program.

(3) *Quarterly reports.* The mayor shall provide the city council with quarterly reports describing the operation and effectiveness of the small business enterprise program. The reports submitted by the mayor shall include information regarding the rates of participation by minority-owned and women-owned enterprises in the city's contracting program.

(Ord. No. 14-88, § 1, 4-28-88; Ord. No. 4-89, §§ 1, 2, 1-26-89; Ord. No. 61-89, §§ 1, 2, 12-7-89; Ord. No. 28-99, § 1, 7-22-99; Ord. No. 29-02, § 1, 9-26-02; Ord. No. 13-09, § 1, 4-23-09; Ord. No. 09-10, § 1, 4-8-10; Ord. No. 16-10, § 37, 9-9-10; Ord. No. 14-14, § 1, 4-10-14)

Sec. 3-3-5. - Advertisements.

All advertisements for bids relative to contracts for public work or improvement, prescribed in section 3-3-2, and all other advertisements for bids relative to contracts for the purchase of materials and supplies, which are required by law to be published, shall be published once a week for two (2) weeks in a newspaper published in the city which meets the requirements of F.S. § 50.031.

(Ord. No. 17-98, § 5, 5-28-98)

Sec. 3-3-6. - Prohibited conduct by bidders.

(a) Prohibited conduct. Upon the publication of any solicitation for sealed bids, requests for proposals, requests for qualifications, or other solicitation of interest or invitation to negotiate by any authorized representative of the City of Pensacola, any party interested in submitting a bid, proposal, or other response reflecting an interest in participating in the purchasing or contracting process shall be prohibited from engaging in any communication pertaining to formal solicitations with a member of the Pensacola City Council or any member of a selection/evaluation committee for RFQs, whether directly or indirectly or through any representative or agent, whether in person, by mail, by facsimile, by telephone, by electronic communications device, or by any other means of communication, until such time as the city council or member of a selection/evaluation committee has completed all action with respect to the solicitation. Any member of council or committee receiving a communication prohibited by this section shall be obligated to disclose such communication to the entire city council prior to council taking any action with respect to the solicitation.

(b) Sanctions. The city council may impose any one (1) or more of the following sanctions upon a bidder or proposer for a violation of the policy set forth in this section:

(i) Rejection or disqualification of the submittal;

(ii) Termination of any contract with the City of Pensacola; or

(iii) Suspension or debarment from future participation in contracting opportunities with the City of Pensacola for a period of time to be determined by council, not to exceed five (5) years in length.

With respect to the sanctions of termination of contracts, or suspension or debarment, council shall provide an opportunity for a hearing before council prior to the imposition of such sanction, and the decision of council following such hearing shall be final subject only to judicial review within thirty (30) days by petition for writ of certiorari.

(c) The mayor may designate the appropriate contracting official who shall be charged with the responsibility of including information pertaining to this policy to all prospective bidders or proposers.

(Ord. No. 12-10, § 1, 5-13-10; Ord. No. 16-10, § 38, 9-9-10)

Sec. 3-3-7. - Purpose and scope.

The purpose of this section, consistent with the legislative findings stated below, is to enable the city, through the purchasing manager, to undertake specific activities to prevent disparate treatment and its effects against business enterprises who have been certified as MBEs ("MBEs") or WBEs ("WBEs"). The mayor is hereby expressly delegated the necessary powers to effectuate the purpose of this section.

(Ord. No. 04-15, § 1, 2-12-15)

Sec. 3-3-8. - Findings.

The City Council of Pensacola, after considering:

(1) The Report prepared by MGT of America entitled, "Comprehensive Disparity Study for the City of Pensacola, 2012" ("MGT Study") which found evidence of disparities between availability and utilization of woman- and minority-owned business enterprises and in the private sector as well as;

(2) Anecdotal evidence of disparate treatment against MBEs and WBEs by prime contractors.

(3) Hereby adopts the following findings as a strong basis in evidence supporting a narrowly tailored, remedial program in City procurement.

There exists a prima facie evidence showing that WBEs, and MBEs owned by African-Americans, Hispanics, Asian-Americans, Native Americans and Women, who have done business or attempted to do business in the private and public industries within the city and the Pensacola metropolitan area, have suffered and continue to suffer from disparate treatment by prime contractors. This disparate treatment has existed in private sector industry contracting in such work areas in which the city has been a passive participant. Because of such disparate treatment, such WBEs and MBEs have lacked equal opportunity to participate in such contracts. Such disparate treatment has prevented WBEs and MBEs from participating both in the city's contracting opportunities and in the private sector at a level which would have existed absent such disparate treatment.

The city seeks to provide a level playing field and equal access for all prime contractors and subcontractors to participate in city procurement. The city also desires to reaffirm its commitment to full and fair opportunities for all firms to participate in its contracts.

The MGT Study made recommendations for a Minority- and Women-owned business program for city procurement, emphasizing the establishment of project-specific goals, implementation of race- and gender-neutral measures, and enhancements to data gathering.

Goals program. The city, therefore, finds and declares that it has a compelling governmental interest in prohibiting, preventing, and eliminating race and gender disparate treatment and its effects in city contracts, and for this purpose, adopts the specific program of good-faith efforts goals as set forth in this section 3-3-8. This program will be carefully structured to take into consideration factors such as present availability of such WBEs and MBEs to perform work on such city contracts, and to take into consideration statistical and anecdotal evidence of disparate treatment. The program is to be narrowly tailored to prevent and eliminate disparate treatment and its effects against such MBEs and WBEs with a minimum of burden on other contractors, including:

The program does not impose a quota, set-aside, sheltered market or bid preference, never excludes any party, including nonminority- and non-woman-owned business enterprises, from competing for any contract, and never denies contracts for failure to meet project goals, if non-disparate treatment is demonstrated by a showing of a good-faith attempt to comply with project goals established therein. The program provides for graduation from the program of MBEs and WBEs whose size indicates that they have had the opportunity to overcome the effects of disparate treatment.

Definitions.

- **Certification.** An application procedure completed by a business enterprise to participate as a small, minority, or woman business enterprise under the M/WBE Program.

- **Certified Business Enterprise.** A small, minority, or women-owned business enterprise that has been certified by the city and/or certifying agencies approved by the city.

- **Minority individual.** An individual who is a citizen of the United States or a legal resident alien and who satisfies one or more of the following definitions as defined by the United States (U.S.) Census Bureau:

    A) **African Americans:** U.S. citizens or lawfully admitted permanent residents having an origin in any of the black racial groups of Africa.

    B) **Hispanic Americans:** U.S. citizens or lawfully admitted permanent residents of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish or Portuguese cultures or origins regardless of race.

    C) **Asian Americans:** U.S. citizens or lawfully admitted permanent residents who originate from the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands.

    D) **Native Americans:** U.S. citizens or lawfully admitted permanent residents who originate from any of the original peoples of North America and who maintain cultural identification through tribal affiliation or community recognition.

    E) **Women:** U.S. citizens or lawfully admitted permanent residents who are non-Hispanic white females. Minority women were included in their respective minority category.

    F) **Disadvantaged Individual.** An individual defined as disadvantaged for purposes of the federal disadvantaged business enterprise program (DBE) contained in 49 CFR Part 26.

- **Minority-owned Business.** A business located in the Pensacola Regional Area, that is at least fifty-one (51) percent owned by one or more minority individuals who are U.S. citizens or legal resident aliens, or in the case of a corporation, partnership, or limited liability company or other entity, at least fifty-one (51) percent of the equity ownership interest in the corporation,

partnership, or limited liability company or other entity is owned by one or more minority individuals who are U.S. citizens or legal resident aliens, and both the management and daily business operations are controlled by one or more minority individuals.

• **Pensacola Regional Area.** The market area of four Florida counties: Escambia, Santa Rosa, Okaloosa, and Walton as well as Mobile, Alabama.

• **Proposal.** A response to a request for proposal, request for information, request for qualifications, or city-requested informal quote.

• **M/WBE.** A certified minority and woman business enterprise, as defined herein, located in the Pensacola Regional Area.

(Ord. No. 04-15, § 1, 2-12-15)

Sec. 3-3-9. - Rules and regulations; informal guidelines.

The mayor shall have the power and authority to each adopt rules and regulations and/or informal guidelines to effectuate the purpose and operation of this section, including by way of example, but not by way of limitation, the determination of qualification of a business enterprise; the determination of good-faith criteria and efforts with respect to the meeting of contract goals; the determination of informal procurement procedures involving notification of MBEs and WBEs; the procedures, methods and criteria of certification and decertification of MBEs and WBEs; and graduation size standards and other criteria.

(Ord. No. 04-15, § 1, 2-12-15)

Sec. 3-3-10. - Contracts excepted from this article.

In the case of a contract hereunder for which a part of the contract price is to be paid with funds from the United States Government or the State of Florida and for which the United States Government or the State of Florida has made applicable to such contract requirements, terms or conditions which are inconsistent with the terms of this section, the provisions of this section shall not apply to such contract to the extent of such inconsistency.

(Ord. No. 04-15, § 1, 2-12-15)

Sec. 3-3-11. - Program review and sunset.

(1) The city council shall hear annual reports from the mayor detailing the city's performance under the program.

(2) The city council will review these reports, including the annual participation goals and the city's progress towards meeting those goals and eliminating disparate treatment in its contracting activities and marketplace.

(3) Within five (5) years after the effective date of this ordinance, the city will review the operation of the program and the evidentiary basis for the program in order to determine whether the city has a continuing compelling interest in remedying disparate treatment against MBEs and WBEs in its marketplace, and the permissible scope of any narrowly tailored remedies to redress disparate treatment against MBEs or WBEs.

(4) This subdivision shall sunset on or before March 1, 2025.

(Ord. No. 04-15, § 1, 2-12-15; Ord. No. 02-20, § 1, 2-13-20)

Sec. 3-3-12. - Purpose and scope of program.

The purpose of this section is to enable the city, through the mayor, to undertake specific activities to encourage Veteran-owned business participation in the city procurement program. The mayor is hereby expressly delegated the necessary powers to effectuate the purpose of this section.

(Ord. No. 09-15, § 1, 4-9-15)

Sec. 3-3-13. - Veterans business enterprise program.

(1) Veterans business enterprise is defined s a business that (i) has been certified by the State Department of Management Services to be a certified veterans business enterprise as set forth in F.S. § 295.187; and (ii) has a principal place of business in Escambia or Santa Rosa County.

(2) A business which wishes to obtain a veterans business enterprise preference on a procurement must be certified by the State Department of Management as a certified veterans business no later than the date of submittal of its bid, proposal, quote or qualification statement. Proof of certification is required.

(3) For solicitations by competitive sealed bidding and requests for quotation, the following bid preference scale shall apply to a responsive bid submitted by a responsible veterans business enterprise, provided its bid does not exceed the lowest responsive and responsible bid by more than the following:

   (a) Fifteen (15) percent on bids up to one thousand five hundred dollars ($1,500.00);

   (b) Ten (10) percent on bids from one thousand five hundred dollars and one cent ($1,500.01) to nineteen thousand nine hundred ninety-nine dollars and ninety-nine cents ($19,999.99);

   (c) Nine (9) percent on bids from twenty thousand dollars ($20,000.00) to thirty-nine thousand nine hundred ninety-nine dollars and ninety-nine cents ($39,999.99);

   (d) Eight (8) percent on bids from forty thousand dollars ($40,000.00) to fifty-nine thousand nine hundred ninety-nine dollars and ninety-nine cents ($59,999.99);

   (e) Seven (7) percent on bids from sixty thousand dollars ($60,000.00) to seventy-nine thousand nine hundred ninety-nine dollars and ninety-nine cents ($79,999.99)

   (f) Six (6) percent on bids from eighty thousand dollars ($80,000.00) to ninety-nine thousand nine hundred ninety-nine dollars and ninety-nine cents ($99,999.99);

   (g) Five (5) percent on bids from one hundred thousand dollars ($100,000.00) to one hundred forty-nine thousand nine hundred ninety-nine dollars and ninety-nine cents ($149,999.99);

   (h) Four (4) percent on bids from one hundred fifty thousand dollars ($150,000.00) to two hundred forty-nine thousand nine hundred ninety-nine dollars and ninety-nine cents ($249,999.99);

   (i) Three (3) percent on bids from two hundred fifty thousand dollars ($250,000.00) to four hundred ninety-nine thousand nine hundred ninety-nine dollars and ninety-nine cents ($499,999.99);

   (j) Two (2) percent on bids from five hundred thousand dollars ($500,000.00) to nine hundred ninety-nine thousand nine hundred ninety-nine dollars and ninety-nine cents ($999,999.99); and

   (k) One (1) percent on bids for one million dollars ($1,000,000.00) or more.

Notwithstanding the foregoing, this bid preference shall not apply if the lowest responsive and responsible bid was submitted by another veterans business enterprise, a minority business enterprise or a woman business enterprise.

(4) For procurement by competitive sealed proposals and requests for qualifications, participation by veterans business enterprises will receive two (2) percent of the points in the scoring as provided in the solicitation. A business which is both a veterans business enterprise and a minority business enterprise or a woman business enterprise will receive a scoring credit for either its status as a veterans business enterprise or as a minority business enterprise or woman business enterprise, but not both as provided in the solicitation.

(5) The veterans business enterprise preference shall not apply to procurements where prohibited by law or disallowed by the terms (i) of any grant or (ii) agreement with the state or federal government.

(6) The veterans business enterprise preference shall apply to solicitations issued by the city after the adoption of this ordinance.

(Ord. No. 09-15, § 1, 4-9-15)

Secs. 3-3-14, 3-3-15. - Reserved.

ARTICLE II. - STOCK ACCOUNTS

REPEAL SECTION 3-3-16.

REPEAL SECTION 3-3-17.

REPEAL SECTION 3-3-18

REPEAL SECTION 3-3-19.

Secs. 3-3-20—3-3-24. - Reserved.

REPEAL SECTION 3-3-26.

Secs. 3-3-27—3-3-29. - Reserved.

ARTICLE IV. - PUBLIC-PRIVATE PARTNERSHIPS (P3)

Sec. 3-3-30. - Purpose and scope; applicability.

(a) This article creates a uniform process for private entities and the city to engage in a public-private partnership (P3) consistent with the provisions of F.S. section 255.065, as that statute may be amended from time to time.

(b) When considering a public project, the city may elect to (1) follow this P3 process if consistent with applicable state statutes, (2) follow any other legally available project delivery process, or (3) not pursue the project.

(c) The procurement of P3 agreements by the city shall be governed by the provisions of this article. Requirements of other sections or articles of this chapter 3-3, including but not limited to section 3-3-4, section 3-3-10, and section 3-3-13, shall not apply to procurements under this article unless such requirement is expressly included or incorporated by reference in the procurement documents. The city shall ensure that generally accepted business practices for exemptions provided by this article are part of the procurement process or are included in the P3 agreement.

(d) The city may develop and maintain a separate P3 policy containing more detailed procedures and requirements for entering into P3 agreements, consistent with this article.

(e) When the city procures stand-alone professional services, as defined in the Consultants' Competitive Negotiation Act, F.S. section 287.055, or when it procures professional services in the context of a design-build project, the city will not follow the P3 process, but will instead continue to comply with the provisions of F.S. section 287.055.

(Ord. No. 20-15, § 1, 11-12-15)

Sec. 3-3-31. - Definitions.

City means the City of Pensacola, Florida.

Conceptual proposal means an unsolicited proposal that includes conceptual information sufficient for the city to determine whether the proposed ideas are attractive enough to justify investment of city resources to undertake a process that may lead to formation of a contract to implement the ideas.

Detailed proposal means a proposal (solicited or unsolicited) that contains detail beyond a conceptual level sufficient for the city to compare the proposal competitively to others.

P3 means a public-private partnership, which is an agreement between the city and a private entity that allows for greater private sector participation in the delivery of a city qualifying project.

P3 Statute means the provisions of F.S. section 255.065, as that statute may be altered or amended from time to time.*Private entity* means any natural person, corporation, general partnership, limited liability company, limited partnership, joint venture, business trust, public benefit corporation, nonprofit entity, or other private business entity.

Proposal review fee means a five thousand dollar ($5,000.00) fee required of a private entity submitting a conceptual proposal, a twenty-five thousand dollar ($25,000.00) fee required of a private entity submitting a detailed unsolicited proposal, or a twenty-five thousand dollar ($25,000.00) fee required of a private entity submitting a detailed proposal that competes with an unsolicited proposal. All proposal review fees are non-refundable.

Qualifying project means a facility or project that serves a public purpose, or a facility or infrastructure that is used or will be used by the public or in support of a public purpose or activity, as defined in F.S. section 255.065.

Solicitation means a city-initiated procurement process seeking offers (bids, proposals, or otherwise) for city projects, which may include processes authorized by chapter 3-3 of the Code of the City of Pensacola, (2) F.S. §§ 255.20 or 287.055, or (3) any other law or the city's home rule powers.

Unsolicited proposal means a conceptual proposal or a detailed proposal that a private entity submits to the city on its own initiative, and not in response to a solicitation.

(Ord. No. 20-15, § 1, 11-12-15)

Sec. 3-3-32. - Conceptual proposal.

(a) A private entity may submit a conceptual proposal to the city to gauge the city's potential interest in pursuing the proposed project as a P3. A conceptual proposal is not required. A private entity may forego submitting a conceptual proposal and submit an unsolicited detailed proposal.

(b) A private entity must tender a non-refundable proposal review fee of five thousand dollars ($5,000.00) with its conceptual proposal. The city will not review a conceptual proposal that is not accompanied by the payment of this fee. The city purchasing may engage the services of private consultants to assist in the review of a conceptual proposal.

(c) A conceptual proposal must contain information sufficient to inform the city about (1) the overall character of the proposed qualifying project, (2) the general experience of the private entity, and (3) the general strategies to ensure successful project delivery.

(d) Within fifteen (15) business days after receipt of the conceptual proposal, the city will either (1) summarily reject the conceptual proposal or (2) accept the conceptual proposal for substantive review and notify the private entity of the anticipated time required for the city to complete the review of the conceptual proposal.

(e) If the city decides to accept the conceptual proposal for substantive review, the city will preliminarily assess whether: (1) the proposed project is a qualifying project; (2) the proposed project delivery model offers advantages over traditional models such as lower cost, shorter schedule, or increased investment.; (3) the proposed project is reasonably likely to satisfy the criteria established by F.S. section 255.065.

(f) Upon completion of review of the conceptual proposal, the city will notify the private entity in writing of its position regarding the proposed project. The city may:

(1) Decide not to pursue the proposed project;

(2) Decide to pursue the proposed project, or a similar project, using other procurement methods (in which, if open to private companies, the private entity may compete if otherwise qualified); or

(3) Decide to continue considering the proposed project and request the private entity to submit a detailed proposal (which request shall not constitute a formal solicitation).

(g) The city disposition of a conceptual proposal does not limit its discretion or authority with respect to future projects, whether substantially similar or not, and whether solicited or unsolicited.

(Ord. No. 20-15, § 1, 11-12-15)

Sec. 3-3-33. - Detailed proposals (unsolicited).

(a) A private entity may submit an unsolicited detailed proposal to the city, to initiate its consideration of whether to deem the proposed project as a qualifying project and whether to pursue it further. The city is not obligated to review, evaluate or pursue a project under the P3 Statute, even if the project satisfies the statutory definition of a qualifying project. The city may engage the services of private consultants to assist in the review and evaluation of a detailed proposal.

(b) A private entity must tender a proposal review fee of twenty-five thousand dollars ($25,000.00) with its detailed proposal, unless, in its sole determination, the private entity has already paid a fee for review of a substantially similar conceptual proposal, in which case the proposal review fee is twenty thousand dollars ($20,000.00). The city will not review a detailed proposal that is not accompanied by the payment of this fee. The proposal review fee is non-refundable.

(c) A detailed proposal must contain information sufficient to inform the city about: the detailed quality and character of the proposed qualifying project; the detailed experience and capacity of the private entity; and the detailed financial and implementation strategies to ensure successful project delivery. This information should include the following:

(1) A description of the private entity, including name, address, type of organization, and legal structure.

(2) Name and complete contact information of the primary point of contact for the detailed proposal.

(3) Names and experience of proposed key project personnel.

(4) Type of support needed, if any, from the city such as facilities, equipment, materials, personnel, or financial resources.

(5) Identification of any proprietary data used and the manner in which it is used.

(6) Identification of any outside entities or professionals the private entity has or intends to consult with respect to the project.

(7) The names of any other federal, state, or local agencies receiving the same proposal.

(8) A complete discussion of the objective of the project, the method of approach, the nature of the anticipated results, and the characteristics that make it a qualifying project worthy of pursuit by the city.

(9) A detailed overview of the proposed business arrangements, including the plan for the development, financing, and operation of the project.

(10) A preliminary project schedule, including anticipated initiation and completion dates.

(11) A detailed financial analysis of the proposed project.

(d) Within ninety (90) business days after receipt of the detailed proposal, the city will notify the private entity in writing of its decision either to reject the detailed proposal or to accept the detailed proposal for competitive review. During this period, the city may meet with the private entity to gain a deeper understanding of the detailed proposal, and the city may request that the private entity submit additional information. The city reserves the right to request the private entity pay the costs of any additional fees required by the city for in-depth review of a particular proposal as necessary. These meetings will be preliminary in nature, and will not include or constitute substantive negotiation of agreement terms. In considering whether to accept the detailed proposal for competitive review, the city will assess whether: (1) the proposed project is a qualifying project; (2) the proposed project delivery model offers advantages over traditional models such as lower cost, shorter schedule, or increased investment; and (3) the proposed project is reasonably likely to satisfy the criteria established by the F.S. section 255.065. The city may determine that it requires more than ninety (90) days to complete its review of the detailed proposal and this assessment, in which case it will notify the private entity in writing of how much time will be required.

(e) An unsolicited proposal, whether conceptual or detailed, and regardless of proposal review fee, may be rejected by the city at any time. The city has complete discretion and authority to reject any unsolicited proposal it receives.

(f) If the city decides to accept an unsolicited proposal for competitive review, it will provide written notice of its decision, and a copy of the unsolicited proposal, to affected local jurisdictions in accordance with F.S. section 255.065(7).

(g) In the event that the city decides to accept an unsolicited proposal for competitive review, the city shall publish notice in the Florida Administrative Register and in a newspaper of general circulation within the city at least once a week for two (2) consecutive weeks, stating that the city has received a proposal and will accept other proposals for the same project. The timeframe within which the city may accept competing proposals shall be determined on a project-by-project basis, based upon the complexity of the project and the public benefit to be gained by allowing longer or shorter time within which competitive proposals may be received; however, the timeframe for allowing competing proposals must be at least twenty-one (21) days, but no more than one hundred twenty (120) days, after the initial date of publication.

(h) Each competing proposal shall be accompanied by a twenty-five thousand dollars ($25,000.00) proposal review fee. The city will not review a competing proposal that is not accompanied by the payment of this fee. The proposal review fee is non-refundable.

(Ord. No. 20-15, § 1, 11-12-15)

Sec. 3-3-34. - Solicited detailed proposals.

(a) The city purchasing may on its own initiative determine to issue a solicitation inviting private entities to submit detailed proposals for any opportunity that the city has identified as a qualifying project.

(b) Any solicitation that the city issues under the authority of F.S. section 255.065 will reference that statute and the city shall publish notice in the Florida Administrative Register and in a newspaper of general circulation within the city at least once a week for two (2) consecutive weeks, stating that the city requests proposals for a qualifying project. The timeframe within which the city may accept

competing proposals shall be determined on a project-by-project basis, based upon the complexity of the project and the public benefit to be gained by allowing longer or shorter time within which competitive proposals may be received; however, the timeframe for allowing competing proposals must be at least twenty-one (21) days, but no more than one hundred twenty (120) days, after the initial date of publication. In addition to the foregoing, the city may further solicit proposals via other media or website posting as desired by city purchasing. Each competing proposal shall be accompanied by a twenty-five thousand dollars ($25,000.00) proposal review fee. The city will not review a competing proposal that is not accompanied by the payment of this fee. The proposal review fee is non-refundable.

(c) The city is not obligated to proceed under the P3 Statute when soliciting proposals, and may follow any legally available procurement process, regardless of whether the project qualifies as a qualifying project and regardless of whether the ultimate transaction may be characterized as a P3.

(Ord. No. 20-15, § 1, 11-12-15)

Sec. 3-3-35. - Competitive review of detailed proposals.

(a) Whether received in response to a solicitation pursuant to F.S. section 255.065, or in response to notice published for competing proposals to an unsolicited proposal, within fifteen (15) business, days after the receipt of all competing detailed proposals, the city will begin evaluation of responses.

(b) The city may rely on subject matter experts, including private consultants and other professionals, and staff for information gathering and administrative work.

(c) The city will initially review the detailed proposals and determine whether to allow for oral discussions or presentations for the purpose of gaining deeper understanding of the detailed proposals. The city is not required to allow oral presentations. Any oral discussion or presentations will be limited to reviewing and discussing information contained in the detailed proposals, and will not include or constitute substantive negotiations related to any detailed proposal or the qualifying project.

(d) The city will rank the detailed proposals in order of preference. The city may use any reasonable method to rank the detailed proposals, and is not required to numerically score them. In ranking the detailed proposals, the city may consider the private entity team members' professional qualifications and experience, the proposed general business terms, innovative project delivery terms (including finance, design, construction, maintenance, and operation, as applicable to the particular circumstance), and any other factors deemed pertinent.

(e) Following its ranking of detailed proposals, the city will commence negotiations with the private entity responsible for the top-ranked proposal. The city will then conduct negotiations in accordance with F.S. section 255.065.

(f) In the city's discretion, the city and the private entity may enter into an interim agreement as described in the F.S. section 255.065.

(g) The city and the private entity may enter into a comprehensive agreement as described provided by law. The city council is authorized to approve a comprehensive agreement only upon the recommendation of the mayor.

(h) In deciding whether to enter into a comprehensive agreement, the city council will consider and determine all reasonable factors, including but not limited to:

(1) Whether the proposed project is a qualifying project.

(2) Whether the qualifying project is in the public's best interest.

(3) Whether the qualifying project involves a facility that is owned by the city or for a facility for which ownership will be conveyed to the city.

(4) Whether the comprehensive agreement has adequate safeguards in place to ensure that additional costs or service disruptions are not imposed on the public in the event of material default by the private entity or cancellation of the qualifying project by the city.

(5) Whether the comprehensive agreement has adequate safeguards in place to ensure that the city or the private entity has the opportunity to add capacity to the qualifying project or other facilities serving similar predominantly public purposes.

(6) Whether the qualifying project will be owned by the city upon completion or termination of the project and payment of amounts financed.

(7) Whether there is a public need for or benefit derived from the qualifying project.

(8) Whether the estimated cost of the qualifying project is reasonable in relation to similar facilities.

(9) Whether the comprehensive agreement will result in the timely acquisition, design, construction, improvement, renovation, expansion, equipping, maintenance, or operation of the qualifying project.

(Ord. No. 20-15, § 1, 11-12-15)

Sec. 3-3-36. - Public records.

All proposals submitted as part of a Public-Private Partnership statutory initiative are subject to the Florida Public Records Law, contained in F.S. ch. 119. If the private entity believes that any information is exempt from the public records law, the private entity must expressly identify the statutory basis of the claimed exemption and segregate the exempt information.

(Ord. No. 20-15, § 1, 11-12-15)

Sec. 3-3-37. - Sovereign immunity.

Nothing in this article shall be deemed a waiver of the sovereign immunity of the city, or any officer or employee thereof with respect to participation in, or approval of, any part of a qualifying project or its operation, including but not limited to, interconnection of the qualifying project with any other infrastructure or project. The city possesses sovereign immunity with respect to the project, including, but not limited to its design, construction, and operation.

(Ord. No. 20-15, § 1, 11-12-15)

Sec. 3-3-38. - Expiration or termination of agreements.

Expiration or termination of comprehensive agreements shall be governed by the provisions of F.S. section 255.065, as that statute may be altered or amended from time to time.

(Ord. No. 20-15, § 1, 11-12-15)

CHAPTER 3-4. TAXATION[3]

Footnotes:

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Cross reference— Administration, Title II; occupational licenses, Ch. 7-2.

State Law reference— Municipal finance and taxation, § 166.201 et seq.; occupational license taxes, F.S. Ch. 205; taxation and finance, Ch. 192 et seq.

ARTICLE I. - IN GENERAL

REPEAL SECTION 3-4-1.

Secs. 3-4-2—3-4-15. - Reserved.

ARTICLE II. - TAXES[4]

Footnotes:

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Editor's note— The city continues to levy the admissions tax and gasoline tax as they are bonded.

Constitutional law reference— All forms of taxation other than ad valorem taxes are preempted to the state except as provided by general law, Fla. Const., § 1(a) of Art. VII.

Cross reference— Power of city to pledge excise taxes for the payment of certain revenue bonds or revenue certificates, § 2-1-1(5).

State Law reference— Admission taxes, F.S. § 212.22; occupational license taxes, F.S. § 205.013 et seq.; gasoline taxes, F.S. § 206.61.

DIVISION 1. - GENERALLY

Secs. 3-4-16—3-4-30. - Reserved.

DIVISION 2. - RESERVED[5]

Footnotes:

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Editor's note— Section 1 of Ord. No. 47-90, adopted Sept. 27, 1990, repealed former §§ 3-4-31—3-4-34, which were contained in Div. 2, "Admissions Tax." The repealed provisions derived from Code 1968, §§ 150-1—150-4.

Secs. 3-4-31—3-4-45. - Reserved.

DIVISION 3. - RESERVED[6]

Footnotes:

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Editor's note— Ord. No. 56-07, § 3, adopted Dec. 13, 2007, repealed div. 3, §§ 3-3-46—3-3-52, in its entirety. Formerly, said division pertained to gasoline tax as enacted by Code 1968, §§ 150-22—150-27.

Secs. 3-4-46—3-4-65. - Reserved.

DIVISION 4. - PUBLIC SERVICE TAX[7]

Footnotes:

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Editor's note— Ord. No. 30-87, § 1, adopted Aug. 27, 1987, repealed §§ 3-4-66—3-4-72 of Div. 4 and added §§ 3-4-66—3-4-75 to read as herein set forth. Prior to repeal, said sections pertained to similar subject matter and were derived from Code 1968, §§ 150-28—150-32.

State Law reference— Municipal public service tax, F.S. § 166.231.

Sec. 3-4-66. - Levy of tax on purchase of electricity, metered or bottled gas and water service.

(a) There is hereby levied by the city a tax on the purchase in the city of electricity, metered natural gas, liquefied petroleum gas either metered or bottled, manufactured gas either metered or bottled, and water. The tax is levied at the rate of ten (10) percent of the first ten thousand dollars ($10,000.00) purchased per month and at the rate of one-tenth (1/10) of one (1) percent of monthly purchases over ten thousand dollars ($10,000.00).

(b) The tax imposed by paragraph (a) shall not be applied against any fuel adjustment charge, and such charge shall be separately stated on each bill. The term "fuel adjustment charge" means all increases in the cost of utility services to the ultimate consumer resulting from an increase in the cost of fuel to the utility subsequent to October 1, 1973.

(Ord. No. 30-87, § 1, 8-27-87; Ord. No. 1-98, § 1, 1-29-98; Ord. No. 56-07, § 1, 12-13-07)

Editor's note— Section 5 of Ord. No. 56-07 provided for an effective date of July 1, 2008.

Sec. 3-4-66.5. - Reserved.

Editor's note— Ord. No. 56-07, § 3, adopted Dec. 13, 2007, repealed § 3-4-66.5 in its entirety. Formerly, said section pertained to tax on telecommunications service as enacted by Ord. No. 1-98, § 4, adopted Jan. 29, 1998.

Sec. 3-4-67. - Levy of tax on purchase of fuel oil.

There is hereby levied by the city on each and every purchase in the city of fuel oil a tax of four cents ($0.04) per gallon.

(Ord. No. 30-87, § 1, 8-27-87)

Sec. 3-4-68. - Collection by seller.

It shall be the duty of every seller to collect from the purchaser the tax levied in this division at the time of collecting the selling price charged in each transaction, and no less frequently than monthly, and to file a return and remit monthly on or before the twentieth (20th) day of each month to the city all the taxes levied and collected during the preceding calendar month. It shall be unlawful for any seller to collect the price of any sale in the city without at the same time collecting the tax unless such seller shall elect to assume and pay the tax without collecting the same from the purchaser.

(Ord. No. 30-87, § 1, 8-27-87; Ord. No. 1-98, § 2, 1-29-98; Ord. No. 41-98, § 1, 9-10-98)

Sec. 3-4-69. - Liability of seller for failure to collect.

Any seller failing to collect the tax levied in this division at the time of collecting the price of any sale, where the seller has not elected to assume and pay the tax, shall be liable to the city for the amount of the tax in like manner as if the same had been actually paid to the seller, and the mayor shall bring and cause to be brought all such suits and actions and take all such proceedings as may be necessary for the recovery of the tax.

(Ord. No. 30-87, § 1, 8-27-87; Ord. No. 16-10, § 42, 9-9-10)

Sec. 3-4-70. - Discontinuance of service.

If any purchaser shall fail, neglect or refuse to pay to the seller the seller's charge and the tax levied in this division and as hereby required on account of the sale for which the charge is made, or either, the seller shall have and is hereby invested with the right to immediately discontinue further service to the purchaser until the tax and the seller's bill has been paid in full.

(Ord. No. 30-87, § 1, 8-27-87)

Sec. 3-4-71. - Records; inspection; transcripts.

Each and every seller of a product or service taxable under this division, shall keep complete records showing all sales in the city. The records shall show the price charged upon each sale, the date thereof and the date of payment thereof, and shall at all reasonable times be open for inspection by the duly authorized agents of the city, who shall have authority to make such transcripts thereof as they may desire.

(Ord. No. 30-87, § 1, 8-27-87)

Sec. 3-4-72. - Computation of tax where seller collects at monthly periods.

In all cases where the seller collects the price thereof at monthly periods, the tax levied in this division may be computed on the aggregate amount of sales during such period; provided the amount of tax to be collected shall be the nearest whole cent to the amount computed.

(Ord. No. 30-87, § 1, 8-27-87; Ord. No. 35-87, § 1, 9-24-87; Ord. No. 46-89, § 1, 9-21-89; Ord. No. 44-91, § 1, 9-26-91; Ord. No. 56-07, § 2, 12-13-07)

Editor's note— Section 5 of Ord. No. 56-07 provided for an effective date of July 1, 2008.

Sec. 3-4-73. - Exemptions.

Purchases by the United States of America, the State of Florida and all counties, school districts, and municipalities of the state, and by public bodies exempted by law or court order, are exempt from the taxes levied in this division. The purchase of natural gas, manufactured gas, or fuel oil by a public or private utility, either for resale or for use as fuel in the generation of electricity, or the purchase of fuel oil or kerosene for use as an aircraft engine fuel or propellant or for use in internal combustion engines shall be exempt from taxation hereunder. Purchase by any recognized church in this state for use exclusively for church purposes are exempt from the taxes levied in this division.

(Ord. No. 30-87, § 1, 8-27-87; Ord. No. 1-98, § 3, 1-29-98)

Sec. 3-4-74. - Reserved.

Editor's note— Ord. No. 56-07, § 3, adopted Dec. 13, 2007, repealed § 3-4-74 in its entirety. Formerly, said section pertained to provisions relating to tax on purchase of local telephone service as enacted by Ord. No. 30-87, § 1, adopted Aug. 27, 1987.

Sec. 3-4-75. - Interest and penalties for late payments and late returns.

Any seller of electricity, metered or bottled gas (manufactured or natural), fuel oil, and water service failing to remit to the city on or before the twentieth (20th) day of each calendar month or quarter, as applicable, all such taxes levied and collected during the preceding tax period shall be liable for interest on the unpaid amount of tax at the rate of one (1) percent per month from the date the tax was due until paid. In addition, penalties will be assessed at a rate of five (5) percent per month of the delinquent tax, not to exceed a total penalty of twenty-five (25) percent, except that in no event will the penalty for failure to file a return be less than fifteen dollars ($15.00). In the case of a fraudulent return or a willful intent to evade payment of the tax, the seller making such fraudulent return or willfully attempting to evade payment of the tax, shall be liable for a specific penalty of one hundred (100) percent of the tax. Interest and penalties shall be computed on the net tax due after application of any overpayments. The interest and penalties shall accrue from the due date until the date such taxes are paid, provided, however, that the finance director may settle or compromise any interest due pursuant to this section as is reasonable under the circumstances.

(Ord. No. 41-98, § 2, 9-10-98)

Sec. 3-4-76. - Costs incurred in pursuit of tax or information as a result of a violation of any section of this division.

The city is entitled to and may assess against sellers not complying with any provision of this chapter, a fee based upon the actual costs incurred by the city in collecting the tax or information due.

(Ord. No. 41-98, § 3, 9-10-98)

Sec. 3-4-77. - Authority.

This division is adopted pursuant to authority granted by, and is subject to the provisions, conditions, limitations, and exemptions of F.S. §§ 166.231 through 166.234, which are incorporated herein and made a part hereof by reference.

(Ord. No. 30-87, § 1, 8-27-87; Ord. No. 41-98, § 4, 9-10-98)

Secs. 3-4-78—3-4-80. - Reserved.

DIVISION 5. - PROPERTY INSURANCE PREMIUM TAX[8]

Footnotes:

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State Law reference— Excise tax on property insurance authorized, F.S. § 175.101.

Sec. 3-4-81. - Levy; due date for payments; collection.

(a) Pursuant to the provisions of F.S. section 175.101, there is hereby assessed, levied and imposed on every insurance company, corporation or other insurer now engaged in or carrying on, or which shall

hereafter engage in or carry on, the business of property insurance as shown by the record of the State of Florida Department of Insurance an excise tax amounting to 1.85 percent of the gross amount of receipts of premiums from policy holders on all premiums collected on property insurance policies covering property within the corporate limits of the city. In the case of multiple peril policies with a single premium for both the property and casualty coverages in such policies, seventy (70) percent of such premiums shall be used as the basis for the 1.85 percent tax. The tax shall be in addition to any lawful license or excise tax now levied or imposed by the city.

(b) The excise tax imposed by this section shall be payable annually on the first day of March of each year hereafter and shall be collected by the state treasurer for account of the city from the companies, corporations and insurers as now required by the laws of the state.

(Code 1968, § 150-35; Ord. No. 30-89, § 1, 6-8-89)

Secs. 3-4-82—3-4-90. - Reserved.

ARTICLE III. - EXEMPTIONS

DIVISION 1. - HISTORIC PROPERTIES EXEMPTION

Sec. 3-4-91. - Exemptions for improvements to historic properties authorized.

A method is hereby created to allow ad valorem tax exemptions under s. 3, Art. VII of the State Constitution to historic properties if the owners are engaging in the restoration, rehabilitation, or renovation of such properties. The city council by ordinance or resolution may authorize the exemption from ad valorem taxation of up to 100 percent of the assessed value of all improvements to historic properties which result from the restoration, renovation, or rehabilitation of such properties. The exemption applies only to improvements to real property. In order for the property to qualify for the exemption, any such improvements must be made on or after the day this division is adopted and in accordance with the provisions of this division.

(Ord. No. 31-94, § 1, 9-8-94)

Sec. 3-4-92. - Taxes to which exemptions apply.

Exemptions shall apply only to taxes levied by the city, excluding levies for the downtown improvement board. The exemptions do not apply, however, to taxes levied for the payment of bonds or to taxes authorized by a vote of the electors pursuant to s. 9(b) or s. 12, Art. VII of the State Constitution.

(Ord. No. 31-94, § 1, 9-8-94)

Sec. 3-4-93. - Duration of exemptions.

Any exemption granted remains in effect for up to ten years (as determined by the ordinance or resolution granting such exemption) with respect to any particular property, regardless of any change in the authority of the city to grant such exemptions or any change in ownership of the property. In order to retain the exemption, however, the historic character of the property, and improvements which qualified the property for an exemption, must be maintained over the period for which the exemption is granted. In the event that an exemption is granted for less than ten years, the city council may extend the term of the exemption provided that the total term shall not exceed ten years.

(Ord. No. 31-94, § 1, 9-8-94)

Sec. 3-4-94. - Property to which exemptions apply.

Property is qualified for an exemption under this division if:

(a) At the time the exemption is granted, the property:

(1) Is individually listed in the National Register of Historic Places pursuant to the National Historic Preservation Act of 1966, as amended; or

(2) Is a contributing property to a national-register-listed district; or

(3) Is designated as a historic property, or as a contributing property to a historic or preservation district, under the terms of the of the land development code or other ordinance of the city; and

(b) The preservation board has certified to the city that the property for which an exemption is requested satisfies paragraph (a).

(Ord. No. 31-94, § 1, 9-8-94)

Sec. 3-4-95. - Improvements which qualify for exemption.

In order for an improvement to a historic property to qualify the property for an exemption, the improvement must:

(a) Be consistent with the United States Secretary of Interior's Standards for Rehabilitation.

(b) Be determined by the preservation board to meet criteria established in subsections 3-4-96(b) and (c).

(c) Exceed five thousand dollars ($5,000.00) in actual expenditures on the project.

(Ord. No. 31-94, § 1, 9-8-94)

Sec. 3-4-96. - Application and review.

(a) Any person, firm, or corporation that desires an ad valorem tax exemption for the improvement of a historic property must, in the year the exemption is desired to take effect, file with the preservation board an application on a form prescribed by the Department of State. For properties located within a district subject to the jurisdiction of the city's architectural review board, applications should be filed and reviewed by the preservation board prior to the submittal of plans to the architectural review board. Applications are encouraged to be filed before the improvements are initiated and must be filed no later than March 1 next following the completion of construction of the improvements. The application must include the following information:

(1) The name of the property owner and the location of the historic property.

(2) A description of the improvements to real property for which an exemption is requested and the date of commencement of construction of such improvements.

(3) Proof, to the satisfaction of the preservation board, that the property that is to be rehabilitated or renovated is a historic property under this section.

(4) Proof, to the satisfaction of the preservation board, that the improvements to the property will be consistent with the United States Secretary of Interior's Standards for Rehabilitation and will be made in accordance with guidelines developed by the Department of State.

(5) Applications submitted for properties which have been individually designated as historic properties or landmarks shall include documentation substantiating such designation and describing the historic, archaeological or architectural features which provided the basis for

designation. Acceptable documentation shall include a copy of the designation report for the property and official correspondence notifying the property owner of designation.

(6) Other information deemed necessary by the preservation board.

(b) Upon receipt of the completed application and all required supporting materials, the preservation board shall conduct a review to determine:

(1) Whether the property for which an exemption is requested satisfies section 3-4-94.

(2) Whether the proposed improvements are consistent with the Secretary of Interior's Standards for Rehabilitating Historic Buildings (Revised 1990), U.S. Department of the Interior, National Park Service, which are incorporated herein by reference, and the criteria in this division, and

(3) For applications submitted under the provisions of section 3-4-100, whether the criteria of that section are met.

(c) The preservation board shall apply the recommended approaches to rehabilitation as set forth in the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings in evaluating the eligibility of improvements to the historic property. For improvements intended to protect or stabilize severely deteriorated historic properties or archaeological sites, the preservation board shall apply the following additional standards:

(1) Before applying protective measures which are generally of a temporary nature and imply future historic preservation work, an analysis of the actual or anticipated threats to the property shall be made.

(2) Protective measures shall safeguard the physical condition or environment of a property or archaeological site from further deterioration or damage caused by weather or other natural, animal or human intrusions.

(3) If any historic material or architectural features are removed, they shall be properly recorded and, if possible, stored for future study or reuse.

(4) Stabilization shall reestablish the structural stability of a property through the reinforcement of loadbearing members or by arresting material deterioration leading to structural failure. Stabilization shall also reestablish weather resistant conditions for a property.

(5) Stabilization shall be accomplished in such a manner that it detracts as little as possible form the property's appearance. When reinforcement is required to reestablish structural stability, such work shall be concealed wherever possible so as not to intrude upon or detract from the aesthetic and historical quality of the property, except where concealment would result in the alteration or destruction of historically significant material or spaces.

(d) On completion of the review of an application, the preservation board shall notify the applicant and the mayor in writing of the results of the review and shall make recommendations for correction of any planned work deemed to be inconsistent with the standards cited subsection (b)(2) of this section.

(e) Each review of an application conducted by the preservation board shall be completed within thirty (30) days following receipt of the completed application and all required supporting materials.

(Ord. No. 31-94, § 1, 9-8-94; Ord. No. 7-01, § 1, 1-25-01; Ord. No. 16-10, § 43, 9-9-10)

Sec. 3-4-97. - Request of review of completed work.

(a) Following completion of the improvements, the applicant shall submit to the preservation board, a request for review of completed work on a form prescribed by the Department of State. The applicant shall submit with such request documentation demonstrating that the actual expenditure on the improvements exceeded five thousand dollars ($5,000.00). Such documentation shall include paid

contractor's bills, cancelled checks or other information determined to be sufficient by the preservation board.

(b) Upon receipt of the request for review of completed work and all required supporting materials, the preservation board shall conduct a review to determine whether or not the completed improvements are in compliance with the work described in the approved preconstruction application, subsequent approved amendments, if any, and the Secretary of Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings. The preservation board may inspect the completed work to verify such compliance.

(c) On completion of the review of a request for review of completed work, the preservation board shall recommend that the city council grant or deny the exemption. The recommendation, and the reasons therefor, shall be provided in writing to the applicant and to the local government.

(d) Each review of a request for review of completed work shall be completed within thirty (30) days following receipt of the completed request and all required supporting materials.

(Ord. No. 31-94, § 1, 9-8-94)

Sec. 3-4-98. - Approval of exemption.

A majority vote of the city council shall be required to approve an exemption. Such exemption shall take effect on the January 1 following substantial completion of the improvement. The city council shall include the following in the resolution or ordinance approving the exemption:

(a) The name of the owner and the address of the historic property for which the exemption is granted.

(b) The period of time for which the exemption will remain in effect and the expiration date of the exemption.

(c) A finding that the historic property meets the requirements of this division.

(Ord. No. 31-94, § 1, 9-8-94)

Sec. 3-4-99. - Covenant.

(a) A property owner qualifying for an exemption under this division and the city shall execute a historic preservation property tax exemption covenant, on a form approved by the Division of Historical Resources of the Department of State, requiring that the character of the property, and the qualifying improvements to the property, be maintained during the period that the exemption is granted. The covenant or agreement shall be binding on the current property owner, transferees, and their heirs, successors, or assigns. On or before the effective date of the exemption, the owner of the property shall have the covenant recorded with the deed for the property in the official records of Escambia County.

(b) The following conditions shall provide justification for removal of a property from eligibility for the property tax exemption provided under this division:

(1) The owner is in violation of the provisions of the historic preservation tax exemption covenant; or

(2) The property has been damaged by accidental or natural causes to the extent that the historic integrity of the features, materials, appearance, workmanship and environment, or archaeological integrity which made the property eligible for listing in the National Register or designation under the provisions of the local preservation ordinance have been lost or so damaged that restoration is not feasible.

(c) Violation of the covenant or agreement results in the property owner being subject to the payment of the differences between the total amount of taxes which would have been due in March in each of the previous years in which the covenant or agreement was in effect had the property not received the exemption and the total amount of taxes actually paid in those years, plus interest on the difference calculated as provided in F.S. § 212.12(3).

(Ord. No. 2378, § 1, 5-9-94)

Sec. 3-4-100. - Additional exemptions for historic properties open to the public.

(a) If an improvement qualifies a historic property for an exemption under this division, and the property is used for nonprofit or governmental purposes and is regularly and frequently open for the public's visitation, use, and benefit, and city council by ordinance or resolution may authorize the exemption from ad valorem taxation of up to one hundred (100) percent of the assessed value of the property, as improved, any provision of this division to the contrary notwithstanding, if all other provisions of this division are complied with; provided, however, that the assessed value of the improvement must be equal to at least fifty (50) percent of the total assessed value of the property as improved. The exemption applies only to real property to which improvements are made by or for the use of the existing owner. In order for the property to qualify for the exemption provided in this section, any such improvements must be made on or after the day the ordinance granting the exemption is adopted.

(b) For purposes of the exemption under this section, a property is being used for government or nonprofit purposes if the occupant or user of at least sixty-five (65) percent of the useable space of a historic building or of the upland component of an archaeological site is an agency of the federal, state or local government, or a nonprofit corporation whose articles of incorporation have been filed by the Department of State in accordance with F.S. § 617.0125.

(c) For purposes of the exemption under this section, a property is considered regularly and frequently open to the public if public access to the property is provided not less than fifty-two (52) days a year on an equitably spaced basis, and at other times by appointment. Nothing in this section shall prohibit the owner from charging a reasonable nondiscriminatory admission fee.

(Ord. No. 31-94, § 1, 9-8-94)

Sec. 3-4-101. - Report of property appraiser.

The city shall deliver a copy of each application for a historic preservation ad valorem tax exemption to the Property Appraiser of Escambia County. Upon certification of the assessment roll, or recertification, if applicable, pursuant to F.S. § 193.122, for each fiscal year during which this division is in effect, the property appraiser shall report the following information to the city council:

(a) The total taxable value of all property within the city for the current fiscal year.

(b) The total exempted value of all property in the city which has been approved to receive historic preservation ad valorem tax exemption for the current fiscal year.

(Ord. No. 31-94, § 1, 9-8-94)

Sec. 3-4-102. - Definitions.

(a) The words and phrases used in this division which are defined in Chapter 1A-38 of the Rules of the Department of State Division of Historical Resources shall have the same meanings as are set forth in said chapter except where the context clearly indicates a different meaning.

(b) Preservation board, as used in this division, shall mean the Historic Pensacola Preservation Board of Trustees of the Department of State. Provided, however, if the Department of State does not designate the preservation board to carry out the functions prescribed to the preservation board by this division, then preservation board shall mean the Division of Historical Resources of the Department of State.

(Ord. No. 31-94, § 1, 9-8-94)

Sec. 3-4-103. - Fees.

The city council may adopt uniform fees to recover the costs of processing applications for exemptions under this division.

(Ord. No. 2378, § 1, 5-9-94)

Secs. 3-4-104—3-4-110. - Reserved.

DIVISION 2. - SENIOR CITIZENS EXEMPTION

Sec. 3-4-111. - Authority.

This division is adopted pursuant to F.S. § 196.075, as amended, and Article VII, Section 6(d), of the Florida Constitution to allow an additional homestead tax exemption of up to fifty thousand dollars ($50,000.00) for any person who has legal or equitable title to real estate and maintains thereon the permanent residence of such owner, who has attained age sixty-five (65), and whose household income does not exceed the limits established by F.S. section 196.75 in accordance with the regulations established herein.

(Ord. No. 24-01, § 1, 11-15-01; Ord. No. 15-14, § 1, 4-24-14)

Sec. 3-4-112. - Definitions.

The words and phrases in this division shall have the meanings provided by F.S. § 196.075, as amended, except where the context clearly indicates a different meaning.

(Ord. No. 24-01, § 1, 11-15-01)

Sec. 3-4-113. - Additional homestead tax exemption for persons age sixty-five and older.

(a) In accordance with Section 6(d), Article VII of the Florida Constitution and F.S. § 196.075, as amended, the City Council hereby authorizes the following additional homestead tax exemptions:

(1) Commencing with the 2015 tax year and each year thereafter, an additional homestead tax exemption in the amount of fifty thousand dollars ($50,000.00) for any person who has legal or equitable title to real estate and maintains thereon the permanent residence of such owner, who has attained age sixty-five (65), and whose household income does not exceed the household income limitation.

(2) Commencing with the 2015 tax year and each year thereafter, an additional homestead tax exemption in the amount of the assessed value of the property for any person who has legal or equitable title to real estate with a just value less than two hundred fifty thousand dollars

($250,000.00) and maintains thereon the permanent residence of such owner for at least twenty-five (25) years, who has attained age sixty-five (65), and whose household income does not exceed the household income limitation).

(b) The income limitation shall be adjusted annually, on January 1, by the percentage change in the average cost-of-living index in the period January 1 through December 31 of the immediate prior year compared with the same period for the year prior to that. The index is the average of the monthly consumer-price-index figures for the stated twelve-month period, relative to the United States as a whole, issued by the United States Department of Labor.

(c) Persons receiving such additional homestead tax exemption shall be subject to the provisions of F.S. §§ 196.131 and 196.161, as amended, if applicable, pertaining to wrongful receipt of a homestead tax exemption.

(Ord. No. 24-01, § 1, 11-15-01; Ord. No. 15-14, § 2, 4-24-14)

Sec. 3-4-114. - Rescission.

It is the intent of the city council in establishing this division that it be and is hereby empowered to rescind this additional homestead tax exemption at the end of any particular year should it be determined in the sole discretion of the city council that there is an adverse financial impact of such an exemption, and it no longer serves the best financial interest of the city.

(Ord. No. 24-01, § 1, 11-15-01)

Sec. 3-4-115. - Exemption limitation.

(a) The additional homestead tax exemption established hereunder shall apply only to taxes levied by the City of Pensacola. Unless otherwise specified by the city, this exemption will apply to all levies of the city, including dependent special districts and municipal service taxing units.

(b) Should the city council hereafter specify a different exemption amount for any dependent special district or municipal service taxing unit, that exemption amount must be uniform in all such dependent special districts or municipal service taxing units within the city.

(Ord. No. 24-01, § 1, 11-15-01)

Sec. 3-4-116. - Application procedure.

(a) Those persons entitled to the homestead tax exemption in F.S. § 196.031, as amended, may apply for and may receive an additional homestead tax exemption as provided in this section.

(b) A taxpayer claiming the additional homestead tax exemption provided under this division shall annually submit to the property appraiser, no later than March 1, a sworn statement of household income on a form prescribed by the department of revenue.

(c) The filing of the statement of the taxpayer shall be supported by copies of any federal income tax returns for the prior year, any wage and earnings statements (W-2 forms), and any other documents it finds necessary, for each member of the household, to be submitted by June 1. The taxpayer's statement shall attest to the accuracy of such copies. The property appraiser may not grant the exemption without the required documentation.

(d) If title is held jointly with right of survivorship, the person residing on the subject property and otherwise qualifying may receive the entire amount of the additional homestead tax exemption.

(Ord. No. 24-01, § 1, 11-15-01)

Sec. 3-4-117. - Repeal.

The city clerk shall deliver a copy of the adopted ordinance to the property appraiser no later than December 1 of the year prior to the year that this exemption will take effect. If this ordinance is hereafter repealed, the city council shall notify the property appraiser no later than December 1 of the year prior to the year the exemption expires.

(Ord. No. 24-01, § 1, 11-15-01)

Secs. 3-4-118—3-4-130. - Reserved.

DIVISION 3. - ECONOMIC DEVELOPMENT AD VALOREM TAX EXEMPTION

Sec. 3-4-131. - Purpose and intent.

It is the intent of the city to secure or ensure the consideration of economic development ad valorem tax exemptions according to the following provisions:

(1) *No precedent.* No precedent shall be implied or inferred by the granting of an exemption to a new or expanding business. The city's decision to grant or deny an application shall be discretionary. Applications for exemptions shall be considered by the city on a case-by-case basis for each application, after consideration of the Escambia County Property Appraiser's report on an application and other relevant factors pertaining to the application.

(2) *Percentage of assessed value.* Per F.S. Ch. 196, any exemption granted may apply up to one hundred (100) percent of the assessed value of all improvements to real property made by or for the use of a new business and all tangible personal property of such new business, or up to one hundred (100) percent of the assessed value of all added improvements to real property which additions are made to facilitate the expansion of an existing business and of the net increase in all tangible personal property acquired to facilitate such expansion of an existing business. To qualify for this exemption, the improvements to real property must be made or the tangible personal property must be added or increased after approval by motion or resolution of the city subject to ordinance adoption, or on or after the day the ordinance is adopted.

(3) *Duration of grant.* Any exemption may be granted for a full (10) year period or any period less than ten (10) years from the time the exemption is granted.

(4) *No exemption for land.* No exemption shall be granted on the land on which new or expanded businesses are to be located.

(5) *Exemption limited to city ad valorem taxes.* The exemption applies only to ad valorem taxes levied by the city.

(Ord. No. 06-15, § 1, 3-12-15)

Sec. 3-4-132. - Definition of terms.

The following words, phrases and terms shall have the same meanings attributed to them in current state statutes and the Florida Administrative Code, except where the context clearly indicates otherwise:

(1) *Applicant.* Applicant means any person, firm or corporation submitting an economic development ad valorem tax exemption application to the city.

(2) *Business.* Business means any activity engaged in by any person, corporation or company with the object of private or public gain, benefit or advantage, either direct or indirect.

(a) *New business.* New Business shall have the meaning defined in F.S. Ch. 196.

(b) *Expansion of existing business.* Expansion of existing business shall have the meaning defined in F.S. Ch. 196.

(3) *Department.* Department means the Florida Department of Revenue.

. No. 06-15, § 1, 3-12-15)

Sec. 3-4-133. - Procedure: (i) qualification by resolution subject to ordinance, or (ii) by ordinance alone.

Pursuant to F.S. Ch. 196, the city, at its discretion, by ordinance may exempt from ad valorem taxation up to one hundred (100) percent of the assessed value of all improvements to real property made by or for the use of a new business and of all tangible personal property of such new business, or up to one hundred (100) percent of the assessed value of all added improvements to real property made to facilitate the expansion of an existing business and of the net increase in all tangible personal property acquired to facilitate such expansion of an existing business. To qualify for this exemption, the improvements to real property must be made or the tangible personal property must be added or increased either (i) after approval by motion or resolution of the city, subject to later ordinance adoption, or (ii) on or after the day the ordinance is adopted.

(Ord. No. 06-15, § 1, 3-12-15)

Sec. 3-4-134. - Application for resolution subject to ordinance.

Any applicant desiring a city resolution in support of considering the grant of a potential economic development ad valorem tax exemption to be effective in a future year, shall, in any year prior to the year the desired exemption is to take effect and prior to improvements being made, file with the city a written application in a form prescribed by the city containing adequate information to the satisfaction of the city for review of the proposed application by the city in the city's sole discretion. Providing city passage of such resolution in support of considering the grant of an exemption, the applicant shall, pursuant to F.S. Ch. 196, in the year the exemption is desired to take effect, make application with the city for an ordinance granting the exemption. Such application for ordinance following resolution shall conform to the procedures of the city, this division, and F.S. Ch. 196.

(Ord. No. 06-15, § 1, 3-12-15)

Sec. 3-4-135. - Application for ordinance.

Pursuant to F.S. Ch. 196, any applicant desiring an economic development ad valorem tax exemption shall, in the year the exemption is desired to take effect, file a written application on a form prescribed by the department with the city. The application shall request the adoption of an ordinance granting the applicant an exemption pursuant to this division and F.S. Ch. 196 and shall include the following information:

(a) The name and location of the new business or the expansion of an existing business;

(b) A description of the improvements to real property for which an exemption is requested and the date of commencement of construction of such improvements;

(c) A description of the tangible personal property for which an exemption is requested and the dates when such property was or is to be purchased;

(d) Proof, to the satisfaction of the city, that the applicant is a new business or an expansion of an existing business, as defined in F.S. Ch. 196;

(e) The number of jobs the Applicant expects to create along with the average wage of the jobs and whether the jobs are full-time or part-time;

(f) The expected time schedule for job creation; and

(g) Other information deemed necessary or appropriate by the department or the city.

(Ord. No. 06-15, § 1, 3-12-15)

Sec. 3-4-136. - Report of property appraiser.

Prior to taking action on an application in the form prescribed by the department, city shall deliver a copy of the application to the Escambia County Property Appraiser. Pursuant to F.S. Ch. 196, after careful consideration, the property appraiser shall report the following information to the city:

(a) The total revenue available to the city for the current fiscal year from ad valorem tax sources, or an estimate of such revenue if the actual total revenue available cannot be determined;

(b) Any revenue lost to the city for the current fiscal year by virtue of exemptions previously granted, or an estimate of such revenue if the actual revenue lost cannot be determined;

(c) An estimate of the revenue which would be lost to the city during the current fiscal year if the exemption applied for were granted had the property for which the exemption is requested otherwise been subject to taxation; and

(d) A determination as to whether the property for which an exemption is requested is to be incorporated into a new business or the expansion of an existing business, as defined in F.S. Ch. 196 or into neither, which determination the property appraiser shall also affix to the face of the application. Upon the request of the property appraiser, the department shall provide such information as it may have available to assist in making such determination.

(Ord. No. 06-15, § 1, 3-12-15)

Sec. 3-4-137. - City review criteria.

Pursuant to F.S. Ch. 196, in considering any application for an exemption under this division, the city shall take into account the following:

(a) The total number of net new jobs to be created by the applicant;

(b) The average wage of the new jobs;

(c) The capital investment to be made by the applicant;

(d) The type of business or operation and whether it qualifies as a targeted industry as may be identified from time to time by the city;

(e) The environmental impact of the proposed business or operation;

(f) The extent to which the applicant intends to source its supplies and materials within the applicable jurisdiction; and

(g) Any other economic-related characteristics or criteria deemed necessary by the city.

(Ord. No. 06-15, § 1, 3-12-15)

Sec. 3-4-138. - Ordinance granting exemption.

Pursuant to F.S. Ch. 196, an ordinance granting an exemption shall be adopted in the same manner as any other city ordinance and shall include the following:

(a) The name and address of the new business or expansion of an existing business to which the exemption is granted;

(b) The total amount of revenue available to the city from ad valorem tax sources for the current fiscal year, the total amount of revenue lost to the city for the current fiscal year by virtue of economic development ad valorem tax exemptions currently in effect, and the estimated revenue loss to the city for the current fiscal year attributable to the exemption of the business named in the ordinance;

(c) The period of time for which the exemption will remain in effect and the expiration date of the exemption, which may be any period of time up to ten (10) years; and

(d) A finding that the business named in the ordinance meets the requirements of a new business or expansion of a business pursuant to F.S. Ch. 196.

(Ord. No. 06-15, § 1, 3-12-15)

Sec. 3-4-139. - Finding of eligibility of business.

(1) *Eligible business.* Pursuant to this division, the city shall find the business meets the requirements of a new business or expansion of a business pursuant to F.S. Ch. 196. An eligible business is a new business or expansion of a business, which is not ineligible pursuant to this division.

When considering the issue of whether or not a business or industry is an eligible business, subject to F.S. Ch. 196, the city may consider the anticipated number of employees, average wage, type of industry or business, geographical location of the proposed new business or expanding business, environmental impacts, and volume of business or production prior to accepting the economic development ad valorem tax exemption application.

(2) *Ineligible business.* An ineligible business includes one that is not qualified under this division and includes but is not limited to any business considered in the city's sole discretion to be a business in violation of any federal, state, or local law, policy or regulation, or to be noxious or offensive to the general public, or which may become a nuisance or jeopardize the health, safety or welfare of the citizens of the city.

(Ord. No. 06-15, § 1, 3-12-15)

Sec. 3-4-140. - Annual exemption renewal.

Pursuant to F.S. Ch. 196, once the original application for tax exemption has been granted, in each succeeding year an applicant shall submit an annual renewal application. In addition to statutory requirements, any applicant awarded a tax exemption under this division shall provide to the city, on a form prescribed by the city, sufficient detail in the sole discretion of the city documenting continuing qualification for the granted tax exemption, and compliance with the criteria in section 3-4-137, along with the renewal application for exemption in the form prescribed by the department (currently Form DR-418).

(Ord. No. 06-15, § 1, 3-12-15)

Sec. 3-4-141. - Fees.

No fees shall be charged for processing the economic development ad valorem tax exemption application or any exemption resolution or ordinance adopted by the city.

(Ord. No. 06-15, § 1, 3-12-15)

Sec. 3-4-142. - Revisions to Florida Statutes Control.

F.S. Ch. 196 may be amended by the Florida Legislature from time to time. Any revisions to the Florida Statutes regarding the granting of economic development ad valorem tax exemptions by municipalities shall take precedent over any contrary or conflicting provision in this division.

(Ord. No. 06-15, § 1, 3-12-15)