

CHARTER

- [Art. I.] Abolishment of Present Municipality, §§ 1—4
- [Art. II.] Establishment of New Municipality, §§ 5—23
- [Art. III.] City Manager, §§ 24—27
- [Art. IV.] Administrative Officers and Departments, § 28
- [Art. V.] City Attorney, §§ 29—31
- [Art. VI.] Municipal Judge, §§ 32—36.1
- [Art. VII.] Department of Public Safety and Welfare and Public Works, §§ 37—59
- [Art. VIII.] Department of Finance, §§ 60—68
- [Art. IX.] Trustees of Sinking Fund, § 69
- [Art. X.] Advisory Boards, § 70
- [Art. XI.] Finances and Taxation, §§ 71—88
- [Art. XII.] Equalizing Board, §§ 89—107
- [Art. XIII.] Foreclosure of Tax Liens, §§ 108—121
- [Art. XIV.] Public Improvements, §§ 122—128
- [Art. XV.] Public Utilities and Franchises, §§ 129—136
- [Art. XVI.] Compensation of Officers and Employees, §§ 137—139
- [Art. XVII.] Elections, §§ 140—143
- [Art. XVIII.] The Recall, §§ 144—152
- [Art. XIX.] General Provisions, §§ 153—161

Editor's note—The charter of the city consists of chapter 24374 of the Special Acts of Florida, 1947 and all acts amendatory thereof. All amendments have been worked into their appropriate places herein. The amended sections are followed by a historical citation giving the source of such amendments. The original format as set out in the special acts has been retained, with the exception of the portions indicated in brackets []. The editor has footnoted certain portions of the charter to aid the user in locating state laws which supersede the provisions of this charter.

State law reference—Municipal charter, charter amendments, F.S.A., ch. 166.

CHAPTER 24374 (No. 760)

HOUSE BILL NO. 1191

AN ACT to Abolish the Present Municipal Government of the City of Apalachicola, in the County of Franklin, in the State of Florida, and to Create, Establish and Organize a Municipality to be Known and Designated as the City of Apalachicola, and to Define its Territorial Boundaries and to Provide for its Government, Jurisdiction, Powers, Franchises and Privileges.

Be It Enacted by the Legislature of the State of Florida:

[ARTICLE I.] ABOLISHMENT OF PRESENT MUNICIPALITY

Section 1. Abolishment of present municipality.

That the present municipal government existing under the name of the City of Apalachicola be and the same is hereby abolished.

Section 2. Title to property reserved to new municipality.

That the title, rights, and ownership of property, collected and uncollected taxes, dues, claims, judgments, moneys, decrees and choses in action, hitherto held or owned by the City of Apalachicola, under its present or any former Charter, shall pass to, and be vested in the municipal corporation organized by and under this Act to succeed the municipality abolished.

Section 3. Contracts remain binding.

That no debt, obligation or contract of the said City of Apalachicola, including bonds and debentures heretofore issued, shall be impaired or avoided by this Act, but such debts, obligations, contracts, bonds and debentures shall pass to and be binding upon the new municipality which is hereby organized and created.

Section 4. Officers hold until successors qualify.

That all officers heretofore elected or appointed and holding office under the said municipality shall continue to hold their respective offices and to discharge the duties thereof until their successors are elected and confirmed under the provisions of this Act; provided, that if no such successors are clearly provided for in this Act, then such officers shall hold office and discharge their duties only during the pleasure of the City Commission herein created; and all existing ordinances of the said municipality, not in conflict with the provisions of this Act, shall continue in effect and unimpaired until repealed, amended or modified by the municipality which is hereby organized and created.

[ARTICLE II.] ESTABLISHMENT OF NEW MUNICIPALITY**Section 5. Establishment of new municipality.**

The inhabitants of the City of Apalachicola, Florida, as its limits are hereinafter established, or as such limits may be hereafter established, shall be and continue to be a body politic and corporate to be known and designated as the "City of Apalachicola," and as such shall have perpetual succession, may have and use a common seal which it may change at pleasure, may contract and be contracted with, may sue and be sued, and may plead and be impleaded in all of the Courts of this State.

Section 6. Boundaries.

That the corporate limits of the City of Apalachicola in Franklin County, Florida, be, and the same are hereby fixed, defined and established so as to include the following lands and territory in said County of Franklin in the State of Florida, to-wit:

Beginning at the point on the North bank of the Apalachicola River where the West line of Fractional Section 25 in Township 8 South, Range 8 West, intersects said

river at the Southwesterly corner of said Fractional Section 25; Thence running due South into the Apalachicola Bay one mile from the shoreline; Thence in an Easterly direction parallel to the meandering of the shoreline to a point Southeast of the Easterly and Northerly bank of the said Apalachicola River; Thence running Northwest to the Westerly shoreline of Big Towhead Island; Thence continuing in a Northwesterly direction along the said shoreline to the Northwesterly point of said island; Thence Northwest to the Easterly and Northerly bank of said Apalachicola River; Thence meandering along the bank of said river in a Northwesterly and Westerly direction to the point of beginning.

Any additional property lying adjacent to the boundaries above described in this section of this Act, or as the boundaries may from time to time be fixed, and consisting of land subdivided and platted into lots and/or blocks, or parcels other than lots or blocks, but having not more than one-half acre embraced therein by whatever name designated, may be annexed to and included within the legal corporate limits of the City of Apalachicola aforesaid, by and with the consent of the City Commission of the City of Apalachicola, upon application being made to the said City Commission in writing, and signed by a majority of the record owners of the property which is proposed to be annexed. Should the City Commission consent to the annexation of said additional or outlying territory, said Commission shall so certify to the Governor of the State of Florida, and a proclamation, setting forth the boundaries of said territory to be annexed, shall thereupon be signed and issued by the Governor and the said territory and the inhabitants thereof, shall become and from thenceforth constitute a part of the municipality of the City of Apalachicola, subject to its government, jurisdiction, powers, franchises, duties and privileges. Said proclamation shall be attested by the Secretary of State of the State of Florida, and filed by him in his office, and from and after such attestation and filing, the Courts of the State of Florida shall thereafter take judicial notice of the fact that the territory described in said proclamation is within the territorial limits of the City of Apalachicola, until otherwise changed by law. The territorial limits of said City as above set forth may also be extended at any time or times in accordance with the provisions of Section 3051 of the Compiled General Laws of Florida, 1927, or such other general acts of the Legislature of the State of Florida as may be hereafter enacted with respect to the extension of the territorial limits of municipalities of the State of Florida.

Section 7. Powers of the City.

That the City of Apalachicola hereby created, established and organized, shall have full power and authority to acquire, take, hold and control property real, personal and mixed, both within and without its corporate limits for the use, benefit, welfare and best interest of said municipality, by purchase, lease, grant, gift, devise, condemnation or otherwise, and to sell, lease or otherwise dispose of such property for the benefit of said municipality to the same extent that a natural person might or could do; to issue and sell bonds, debentures and certificates of indebtedness or other obligations, upon its property both within and without its corporate limits, or on the

earnings thereof, or both, for any lawful municipal purpose; to designate and establish, from time to time, fire limits, within which designated types of structures and buildings shall not be erected, constructed, moved, added to or enlarged, or repaired except to such extent and in such manner as may be provided by ordinance, and within which all future buildings shall be constructed wholly, or in such part as may be required, of designated and approved fireproof or fire-resisting materials, and in accordance with such safety regulations as may be prescribed, to regulate the size, character, material, and other details of construction of buildings, fences and other structures, which may hereafter be erected in said City, in such manner as the public safety and convenience may require; and to provide for the removal or destruction of any building, structure or addition thereto, which by reason of dilapidation, defect of structure, or any other cause, may have become dangerous to life or property, or which may have been erected contrary to law; said City may in the interest of the public health, safety, order, convenience, comfort, prosperity or general welfare, adopt by ordinance a plan or plans for the districting or zoning of the City for the purpose of regulating the location of trades, industries, apartment houses, dwellings or other uses of property, or for the purpose of regulating the height of buildings or other structures, or in the area or dimensions of lots or yards in connection with buildings or other structures, or for the purpose of regulating the alignments of buildings or other structures near street frontages. The zoning regulations may be based upon any one or more of the purposes above described. The City may be divided into such number of zones or districts and such districts may be of such shape and area as shall be best suited to accomplish the purposes of the zoning regulations. In the determination and establishment of districts and regulations, classifications may be based on the nature or character of the trade, industry, profession or other activity conducted or to be conducted upon the premises, the number of persons, families, or other group units to reside in or use buildings, the public, quasi-public or private nature of the use of the premises or upon any other basis relevant to the promotion of the public health, safety, order, morals, convenience, prosperity or welfare; to adopt and enforce local police, sanitary and other similar regulations not in conflict with the laws of the State of Florida; to do whatever is necessary and proper for the safety, health, convenience and general welfare of its inhabitants, and to exercise all powers of local self-government; to borrow money in anticipation of taxes to be derived from current assessment for general revenue, in an amount not to exceed twenty-five per cent thereof, and at a rate of interest not to exceed eight per cent per annum such loan to be repaid from the taxes collected for the current year. The enumeration of particular powers by this Charter shall not be deemed or held to be exclusive, but in addition to the powers hereby expressly granted, and those implied therefrom, or appropriate to the exercise thereof, the said City shall have and may exercise all other powers which, under the Constitution and Laws of Florida, it would be competent and appropriate for this paragraph to specifically enumerate.

State law reference—General powers of municipalities, F.S.A., § 167.005 et seq.

Section 8. General description.

The form of Government of the City of Apalachicola provided for under this Act shall be known as "The Commission Plan," or in the event of the appointment of a

City Manager as herein provided, the "Commission-Manager Plan." The City Commission shall constitute the governing body with powers as hereinafter provided to pass ordinances, adopt resolutions and appoint a chief administrative officer to be known as the "City Manager," and to exercise all other powers hereinafter provided.

Section 9. Creation of Commission.

A City Commission is created to consist of a Mayor-Commissioner and four (4) Commissioners, all of whom are elected at large and qualified as hereinafter prescribed and whose terms of office shall be for four (4) years and which terms shall begin on the first Tuesday after the first Monday in October of each year following the election. There shall be an election every two (2) years and at the next regular election after adoption of this amendment there will be two (2) Commissioners elected. Thereafter the regular biennial election shall fill those vacancies occurring at the expiration of the four-year terms. When an office requires the election of more than one (1) candidate, as many groups shall be numerically designated as there are vacancies to be filled by election, each candidate shall indicate the group in which he desires his name to appear on the ballot. A first election shall be held in the City on the first Tuesday after the first Monday in September of every year in which municipal elections are to be held. If a candidate for election for an office shall receive a majority of the votes cast for all candidates for the office, or if he shall have no opposition at the first election, he shall be declared elected to such office. If no election occurs as hereinbefore provided, a second election shall be held on the third Tuesday after the first Monday in September of such year for the purpose of having elected an officer for each and every elective office to be filled; provided, that there shall be printed upon the ballot for the second election only the names of the candidates for each office who shall have received in the first election the greatest and the next greatest or equal number of votes in the first election, and no other name shall be placed on the ballot by electors writing in such names or otherwise. The candidate who receives the greatest number of votes cast for each office shall be declared elected. In case of a tie, a special election shall be called within thirty (30) days for the purpose of determining the winner between any two (2) such candidates. The incumbent shall hold office until a successor is elected and qualified as herein provided. The Mayor and Commissioners shall receive such compensation as the City Commission shall fix and designate by ordinance, but not to exceed six hundred dollars (\$600.00) annually for the Mayor; not to exceed three hundred dollars (\$300.00) annually for each Commissioner. (Sp. Acts, 1956, ch. 31461, § 1; Sp. Acts, ch. 59-1051, § 1)

Section 10. Powers.

All powers of the City, except such as are vested in the jurisdiction of the Municipal Court and except as otherwise provided by this Charter or by the Constitution of the State, are hereby vested in the City Commission, and, except as otherwise provided by this Charter or by the Constitution of the State, the City Commission may, by ordinance or resolution, prescribe the manner in which any power of the City shall be exercised. In the event of the appointment of a City Manager

as hereinafter authorized by said Commission, neither the Commission nor any of its members shall dictate the appointment of any person to office or employment by the City Manager, and the Commission and its members shall deal with the administrative service, which is under the control of such City Manager, through the City Manager.

Editor's note—The municipal court of the city has been abolished. For further details, see the editor's note under article VI of this charter.

Section 11. Qualification of candidates and members.

Members of the Commission shall be qualified electors, residents and freeholders of said City. No person may qualify as a candidate for the Commission until he has presented to the City Commission satisfactory evidence of ownership of real property in the City, and has completed qualification as a candidate by subscribing to the required oath. No person may be elected to the City Commission who shall not qualify as provided by this section. Officers and employees of the City may hold more than one (1) office in the Government of the City of Apalachicola, but shall not be interested in the profits or emoluments of any contract, work or service for the municipality, and any such contract in which any member is, or may become interested, shall be declared void by the Commission. (Sp. Acts 1956, ch. 31461, § 2; Sp. Acts, ch. 59-1051, § 2)

Section 12. Candidates for Commission prohibited from making certain promises.

No candidate for the office of City Commission shall promise any money, office, employment or any other thing of value to secure a nomination or election, or any vote therein. A violation of this provision shall disqualify him from holding the office if elected, and the person receiving the next highest number of votes, who has observed the foregoing conditions, shall be entitled to the office.

Section 13. Judge of the qualifications of candidates and of its own elections.

The Commission shall be the judge of the nominations and qualification therefor and the elections and qualification of its members subject to review of the Court. Any member of the Commission who shall be convicted of crime while in office shall thereby forfeit his office. (Sp. Acts 1956, ch. 31461, § 3)

Section 14. Vacancies.

Any vacancy in the Commission shall be filled until the next regular municipal election by vote of the remaining members of the Commission; provided that if such vacancy is not filled within ten (10) days after it shall have occurred, appointment to fill such vacancy shall be made by the Governor of the State of Florida; it is further provided that at such regular election following such an appointment by the City Commission or Governor, as the case may be, the term for which the Commissioner or Mayor shall be then elected shall be the remainder of the unexpired term; and provided further, that vacancies resulting from a recall election shall be filled in the manner hereinafter prescribed. (Sp. Acts, ch. 59-1051, § 3)

Section 15. Mayor and Mayor-Commissioner same.

Whenever the term Mayor is used in this Charter, it is understood to refer to the Mayor-Commissioner.

Section 16. Functions and powers of Mayor.

[The Mayor shall preside at all meetings of the Commission and perform such other duties consistent with his office as may be imposed upon him by the Commission; and he shall have a voice and a vote in the proceedings of the Commission, but no veto power.] He shall use the title of Mayor in any case in which the execution of legal instruments in writing, or other necessity arising from the General Laws of the State, so requires. He shall be recognized as the official head of the City by the Courts for the purpose of serving civil processes; by the Government in the exercise of military law, and for all ceremonial purposes. He may take command of the police and govern the City by proclamation during the times of grave public danger or emergency, and he shall himself be the judge of what constitutes such danger or emergency. [The powers and duties of the Mayor shall be such as are conferred upon him by this Charter and by the City Commission in pursuance of the provisions of this Charter, and no others.] At the first regular meeting of the City Commission, after this Act becomes effective and thereafter at the first regular meeting following each regular municipal election, at which meeting newly elected Commissioners assume their duties of office, the five City Commissioners shall select one of their number, exclusive of the Mayor, who shall act as Mayor pro tem, which Mayor pro tem when selected by a majority vote of the City Commissioners voting, shall have all the powers and duties of Mayor in the absence from the City of the Mayor or his inability to act and the City Clerk shall certify as to the absence from the City of the Mayor or his inability to act, upon demand, when the Mayor is so absent, from the City of Apalachicola, or unable to act.

Section 17. Meetings.

At ^{six}three o'clock p.m., according to such standard time as shall be used in said City on the first Tuesday after the first Monday in October, following the first municipal election, provided for under this Charter and thereafter at such times are [sic] on the first Tuesday after the first Monday in October following each regular municipal election every other year beginning in 1947, the City Commission shall meet at the usual place and hold the meetings of the legislative body of the City, at which time newly elected Mayor, if same shall be elected, at such election and the newly elected Commissioners shall assume the duties of office. Thereafter, the City Commission shall meet at such times as may be presented by ordinance or resolution, except that it shall meet regularly not less than once each month.

Section 18. Special meetings; how called.

The Mayor, any two members of the Commission, or the City Manager, if one is appointed as hereinafter provided, may call special meetings of the Commission upon at least six hours' written notice to each member, served personally, or left at his usual

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

Section 19. Penalty for absence.

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

Section 20. Legislative procedure.

A majority of all members elected to the City Commission shall constitute a quorum, but a less number may adjourn from day to day and compel the attendance of absent members in such a manner and under such penalties as may be prescribed by ordinance. The affirmative vote of three members shall be necessary to adopt any ordinance or resolution, and the passage of all ordinances and resolutions shall be taken by "yeas" and "nays" and entered upon the journal.

Section 21. Ordinances and resolutions.

All action by the City Commission of a legislative character shall be by ordinance. Every proposed ordinance or resolution shall be introduced in written or printed form, and shall embrace but one subject and matter properly connected therewith, which subject shall be briefly expressed in the title; provided, that general budget or appropriation ordinances may contain the various subjects and accounts for which moneys are to be appropriated; and provided further that no ordinance shall be held to be invalid solely by reason of its title, or by reason of lack of title. The enacting clause of all ordinances shall be "Be it Enacted by the People of the City of Apalachicola." No ordinance, unless it be an emergency measure, shall be passed until it shall have been read at two meetings, not less than one week apart, unless such requirement be dispensed with by unanimous vote of the Commission.

Section 22. Emergency measures.

All ordinances passed by the City Commission shall become effective thirty days from the date of the passing thereof, except that the City Commission may, by unanimous vote, pass emergency ordinances to take effect at the time named therein. An emergency ordinance is one which in the opinion of the City Commission is required to be passed for the immediate protection and preservation of peace, safety, health, or property of the City or its inhabitants; or providing for the usual daily operation of the municipality, or any of its departments; and the emergency requiring its passage shall be set forth in a preamble to the ordinance. Appropriations of money may be made by an emergency ordinance, but no ordinance making a grant, renewal or extension of a franchise or other special privilege, or establishing or regulating the

rates to be charged by any public utility for its services, shall be passed as an emergency ordinance. Provided that nothing in this Act with regard to the rates of public utilities shall apply to public utilities whose rates are subject to regulation by the Railroad Commissioners of Florida.

Editor's note—The Railroad Commissioners of Florida are now known as the Public Service Commissioners of Florida.

No ordinance adopting zoning regulations shall be passed until after a comprehensive plan for the zoning of the City shall have been submitted to the City Commission and notice of such proposed ordinance shall have been given by posting copies thereof [in] at least three public places in said City, one of which shall be the City Hall, for at least ten (10) days prior to the final passage thereof.

Section 23. Record and publication.

Every ordinance or resolution shall, upon its final passage, be signed by the Mayor, or the member of the City Commission presiding at the meeting when it was passed, and by the City Clerk; and shall be recorded in a book kept for that purpose. Each ordinance, after recording, shall be authenticated in said book by the signatures of the Mayor and of the City Clerk. The recording of an ordinance and its authentication as provided for in this section shall be construed and considered as publication; provided, that no ordinance shall become effective until so published, and it is hereby made an express provision of this Charter that said book shall be open to inspection at all reasonable times, under such reasonable regulations, safeguarding against damage or mutilation, as the Commission may see fit to adopt.

[ARTICLE III.] CITY MANAGER

Section 24. Appointment.

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

Section 25. Compensation.

The City Manager, if appointed as aforesaid shall receive such compensation as the City Commission may fix and designate by ordinance.

Section 26. Removal.

He shall be removable by the City Commission; but if removed at any time after having served six months, he may demand written charges and a public hearing upon the same before the Commission, and his final removal shall not take effect until such hearing has been had, but the Commission may suspend him from office without pay pending such hearing.

Section 27. Powers and duties.

The City Manager, if appointed as aforesaid, shall be responsible to the City Commission for the proper administration of all affairs of the City and to that end, his powers are and they shall be:

- (a) To see that the laws and ordinances are enforced.
- (b) Except as hereinafter specifically provided, to appoint and remove all subordinate officers and employees of the City; all appointments to be made upon merit and fitness alone.
- (c) To exercise control and direct supervision over all departments and divisions of the municipal government under this Charter, or which may hereafter be created by the City Commission, including public utilities owned by said City.
- (d) To see that all terms and conditions imposed in favor of the City or its inhabitants in any public utility franchise are faithfully kept and performed; and upon knowledge of any violation thereof, to call the same to the attention of the City Attorney whose duty it is hereby made to take such legal steps as may be necessary to enforce the same.
- (e) To attend all meetings of the City Commission, and of its Committees, with right to take part in the discussions, but without having a vote.
- (f) To recommend to the Commission for adoption such measures as he may deem necessary or expedient in the interests of the City.
- (g) To keep the City Commission fully advised as to the financial condition and needs of the City and to submit for its consideration an annual budget.
- (h) To enforce and administer any zoning regulations established by said City Commission, but said City Commission shall hear and decide appeals and review any order, requirement, decision or determination made by him in the enforcement of the zoning regulations.
- (i) To perform such other duties as may be prescribed under this Charter or as may be required of him by ordinance or resolution of the City Commission.
- (j) He shall be purchasing agent for the City, by whom all purchases of supplies shall be made and he shall approve all vouchers for the payment of same. In the capacity of Purchasing Agent he shall also conduct all sales of personal property which the Commission may authorize to be sold as having become

unnecessary or unfit for the City's use. All purchases and sales shall conform to such regulations as the City Commission may from time to time prescribe; but in any case, whether said City Manager be appointed or not, if an amount in excess of two hundred dollars (\$200.00) be involved, opportunity for competition shall be given.

[ARTICLE IV.] ADMINISTRATIVE OFFICERS AND DEPARTMENTS

Section 28. How constituted.

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

A city Attorney, Municipal Judge and five departments as follows:

- I. The Police and Public Safety Department.
- II. The Public Works Department which shall include the management of the Waterworks and Sewage facilities.
- III. The Streets, Parks and Docks Departments, which shall include administration of cemeteries.
- IV. The Fire Protection, Health and Sanitation Department.
- V. The Finance and Revenue Department.

Editor's note—The office of municipal judge has been abolished. For further details, see the editor's note under article VI of this charter.

The City Commission may provide by ordinance that any of the offices provided for in this Charter may be combined and held by one person.

The City Commission may, by resolution, provide for the appointment or appoint such assistants to the officers named in this Act as it may deem necessary. When so provided in said resolution such assistants may act for or in place of their respective officers to the same extent that said officers might act.

[ARTICLE V.] CITY ATTORNEY

Section 29. Appointment and duties of.

The City Commission shall appoint a City Attorney who shall act as the legal adviser to, and Attorney and Counselor for, the municipality and all of its officers in matters relating to their official duties. He shall prepare all contracts, bonds and other instruments in writing in which the municipality is concerned, and shall endorse on each his approval of the form and correctness thereof; and no contract with the municipality shall take effect until his approval is endorsed thereon. When required to

do so by resolution of the City Commission, he shall prosecute and defend for and in behalf of the City; all complaints, suits and controversies in which the City is a party. He shall furnish the City Commission, the City Manager, if one is appointed as above set forth, the head of any department, or any officer or board not included in any department, his opinion on any question of law relating to their respective powers and duties.

Section 30. Other duties.

In addition to the duties specifically imposed under the preceding section he shall perform such other professional duties as may be required of him by ordinance or resolution of the City Commission, or as are prescribed, for City Attorneys under the General Laws of the State which are not inconsistent with this Charter and with any ordinance or resolution which may be passed by the City Commission.

Section 31. Qualifications.

The City Attorney shall be a lawyer of at least five years' experience, admitted to and having authority to practice in all Courts of the State.

[ARTICLE VI.] MUNICIPAL JUDGE

Editor's note—The city abolished the municipal court with the enactment of Ordinance No. 73-1, which ordinance was enacted pursuant to the authority of F.S.A., § 168.031.

Section 32. Municipal Court.

There shall be and there is hereby established in the City of Apalachicola a Municipal Court to be known as the "Municipal Court of the City of Apalachicola, Florida," for the trial of all offenders against the municipal ordinance. Such Court shall be presided over by a Municipal Judge who shall be appointed by and serve during the pleasure of the Commission. The Mayor of said City may also be the Municipal Judge. In case of the absence of, or disability of, the Municipal Judge, the City Commission may appoint and designate an Acting Municipal Judge to perform the functions of the Municipal Judge. Sessions of the Municipal Court shall be held at any time when necessity therefor arises and not less than once every week, but no such session shall be held on Sundays and holidays.

Section 33. Powers.

The Municipal Judge shall have power by his warrants to have brought before him any person or persons charged with the violation of the City ordinances, and shall have exclusive original jurisdiction over all proceedings of a criminal nature for the violation of any ordinance of the City. In the proper exercise of the functions of the Municipal Court within its jurisdiction as herein defined, the Municipal Judge shall

have power and is authorized to issue and cause to be served any and all writs and processes such as are issued and used by Justices of the Peace in the State of Florida, and the police of the City of Apalachicola are authorized and it is made their duty to execute and serve any and all such writs and processes issued out of the said Municipal Court by the Municipal Judge, and to make proper returns upon the same to such Court in the same manner as is required of Constables and Sheriffs in the execution of similar papers. The Municipal Judge shall have power and authority to take bail for the appearance of an accused person, and if such person fails to appear to declare such bond or security estreated, to require the attendance of witnesses for the City and for the accused person, to administer oaths, take affidavits, and to inquire into the truth or falsity of all charges preferred, to decide on the guilt or innocence of the accused, and to fix and to impose such penalties by sentence as are prescribed and provided for under the ordinances of the City, and to have all powers incidental and usual to the due enforcement of such City ordinances.

Section 34. Appeals: Procedure.

Any person convicted in the Municipal Court of any offense shall have the right of appeal to the Circuit Court of the County in which the City of Apalachicola is, or at such time shall be, situated. The same practice and procedure provided by law for appeals from the County Judge's Court of this State shall govern the practice and procedure of appeals from said Municipal Court.

Section 35. Disposition of moneys collected as fines.

The Municipal Court shall have authority to preserve order and decorum and shall be invested with the same powers to that end, by fine and imprisonment, as are possessed and authorized to be exercised by Criminal Courts of Record within the State. All fines, penalties and fees collected in the Municipal Court and by the police of the City shall be part of the revenue of the City and shall be paid to the City Treasurer and Collector on the day on which collected, and receipt taken therefor. The moneys so paid into the City Treasury may, by ordinance of the City Commission, be appropriated to any particular fund and shall thereafter be used in accordance with such ordinance.

Section 36. Remission of fines and penalties.

No fine or other penalty imposed by the Municipal Court shall be remitted, except by action of the City Commission upon the recommendation of the Municipal Judge; provided, however, that this shall not be construed as precluding the Municipal Judge from suspending sentences imposed by such Court.

Section 36.1. [Issuance of search warrants.]

(1) The Judge of the Municipal Court shall have power to issue search warrants upon any of the following grounds:

- (a) When the property shall have been stolen or embezzled in violation of law;
- (b) When any property shall have been used:
 - 1. As a means to commit any misdemeanor, or
 - 2. In connection with gambling, gambling implements and appliances; or
- (c) When any property is being held or possessed:
 - 1. In violation of any of the laws prohibiting the manufacture, sale and transportation of intoxicating liquors;
 - 2. In violation of any of the laws or ordinances of the City of Apalachicola.

(2) A search warrant cannot be issued except upon probable cause supported by affidavit or affidavits, naming or describing the person, place or thing to be searched and particularly describing the property or thing to be seized; no such warrant shall be issued in blank and any such warrant shall be returned within ten (10) days after issuance thereof.

(3) The Municipal Judge, before issuing the warrant, must have the application of some person for said warrant duly sworn to and subscribed, and may receive further testimony from witnesses or supporting affidavits, or depositions in writing, to support the application. The affidavit and further proof, if same be had or required, must set forth the facts tending to establish the grounds of the application or probable cause for believing that they exist.

(4) The Judge of the Municipal Court, upon examination of the application and proofs submitted, if satisfied that probable cause exists for the issuing of the search warrant, shall thereupon issue a search warrant signed by him with his name and office, to any Sheriff and his deputies or police officer or other person authorized by law to execute process, commanding the officer or person forthwith to search the property described in the warrant or the person named, for the property specified, and to bring the same before him.

(5) The search warrant shall, in all cases, be served by any of the officers mentioned in its direction, but by no other person except in aid of the officer requiring it, said officer being present and acting in its execution.

(6) The officer may break open any outer door, inner door or window of a house, or any part of a house or anything therein, to execute the warrant, if after due notice of his authority and purpose, he is refused admittance to said house or access to anything therein.

(7) A search warrant issued under the provisions of this section may, if expressly authorized in such warrant by the judge issuing the same, be executed by being served either in the daytime or in the nighttime, as the exigencies of the occasion may demand or require.

(8) All search warrants shall be issued in duplicate. The duplicate shall be delivered to the officer with the original warrant, and when the officer serves the

warrant, he shall deliver a copy to the person named in the warrant, or in his absence to some person in charge of, or living on the premises. When property is taken under the warrant the officer shall deliver to such person a written inventory of the property taken and receipt for same, specifying the same in detail, and if no person is found in possession of the premises where such property is found, shall leave the said receipt on the premises.

(9) Upon the return of the warrant the officer shall attach thereto or thereon a true inventory of the property taken under the warrant, and at the foot of the inventory shall verify the same by affidavit taken before some officer authorized to administer oaths, or before the issuing officer, said verification to be to the following effect:

I, _____, (the officer by whom the warrant was executed), do swear that the above inventory contains a true and detailed account of all the property taken by me on said warrant.

(10) The judge to whom the warrant is returned, upon the request of any claimant or any person from whom said property is taken, or the officer who executed the search warrant, shall deliver to said applicant a true copy of the inventory of the property mentioned in the return on said warrant.

(11) If it appears to the judge before whom the warrant is returned that the property or papers taken are not the same as described in the warrant, or that there is no probable cause for believing the existence of the grounds upon which the warrant was issued, the judge may order a return of the property taken.

(12) Whoever shall knowingly and willfully obstruct, resist or oppose any officer or person aiding such officer, in serving or attempting to serve or execute any search warrant, or shall assault, beat or wound any person or officer, or his deputies or assistants, knowing him to be such an officer or person so authorized, shall be fined not more than five hundred dollars (\$500.00), or imprisoned for not more than sixty (60) days.

(13) Any person who maliciously and without probable cause procures a search warrant to be issued and executed shall be fined not more than five hundred dollars (\$500.00) or imprisoned for not more than sixty (60) days. (Sp. Acts, ch. 61-2650, § 1)

[ARTICLE VII.] DEPARTMENT OF PUBLIC SAFETY AND WELFARE AND PUBLIC WORKS

Section 37. Duties and responsibilities of City Manager.

The City Manager, if one is appointed as hereinabove provided, shall be the head of each department provided for under this Charter, and shall be responsible for its successful and business-like operation. If so appointed he shall be the active head of the Department of Public Safety and Welfare and Public Works, which department shall have cognizance of all matters making for the welfare of the community, such as

the control of its charitable and correctional institutions, and the management and supervision of all public improvements, works, undertakings, and utilities of the City except as otherwise specifically provided for under this Charter.

DEPARTMENT NUMBER I

Section 38. Police and public safety.

The Mayor, by ordinance, shall be responsible for this department, if no City Manager is appointed.

Police Force: The Police Force of the City of Apalachicola shall consist of a Chief of Police and as many subordinate officers, policemen and employees as the City Commission shall, by ordinance, determine, all of whom shall be appointed by, and serve during the pleasure of, the City Manager, if appointed as aforesaid, and if no City Manager is appointed, then they shall be appointed by, and serve during the pleasure of the City Commission. The Chief of Police shall have exclusive control of the stationing and transfer of all patrolmen and other officers and employees constituting the Police Force, subject to the approval of the City Manager, or if there be no City Manager, then of the City Commission, and under such rules and regulations as the City Commission may prescribe, or as may be prescribed by ordinance of the City. The Chief of Police, during the absence of or disability of the Municipal Judge, or when the Municipal Judge is not accessible for the reasonably prompt taking of bail, shall have power and authority to take temporary bail for the appearance of an accused person, and if such person fails to appear the Municipal Judge shall have power to declare such bond or security forfeited or estreated, provided, that the Municipal Judge shall have power at any time after arrest of the accused and before sentence is imposed, on production of the accused before him, to increase or decrease the amount of such bail as fixed by the Chief of Police, and if increased, to commit such accused person to custody until such increased or additional bail is provided.

Editor's note—The municipal court of the city has been abolished. For further details, see the editor's note under article VI of this charter.

Section 39. Appointment of extra patrolmen.

In case of riot or other grave emergency and during election or similar occasions, the City Manager, or if there be no City Manager, then the City Commission may appoint additional patrolmen and officers for temporary service. No person shall act as a special policeman, special detective, or other special police officer for any purpose whatsoever, except on written authority of the City Manager or the City Commission as aforesaid. Such authority shall be exercised only under the direction and control of the Chief of Police for a specified time.

Section 40. Chief of police.

The Chief of Police shall attend all meetings of the City Commission and aid in the enforcement of order under the direction of the presiding officer. He shall execute the

commands of the City Commission and all processes issued by authority thereof, which shall be issued to him by the Mayor. He shall attend in person or by deputy the Municipal Court during its sittings; execute commands and processes of said Court, aid in the enforcement of order therein and perform such other duties appropriate to his office as may be imposed upon him by law, the ordinances of the City, and by direction of the City Manager, if one be appointed, consistent with this Act. He shall have the right to suspend any officer or employee of the Police Force because of incompetency, neglect of duty, immorality, drunkenness, failure to obey orders given by proper authority or for any other just and reasonable cause, and he shall immediately report the fact of such suspension to the City Manager, or if there be no City Manager, to the City Commission for final action.

Editor's note—The municipal court of the city has been abolished. For further details, see the editor's note under article VI of this charter.

Section 41. Public safety.

The Mayor, by ordinance, shall be responsible for this department, when there is no City Manager. All matters pertaining to public safety in the City are placed in the aforesaid department number one, and said department shall be charged with their prompt and efficient administration.

DEPARTMENT NUMBER II

Section 42. The public works department which shall include the management of the waterworks and sewage facilities.

A Commissioner, by ordinance, shall be responsible for this department, when there is no City Manager.

Public works: The City Manager, if one be appointed, shall manage and control all city-owned public utilities operated and managed by the municipality, and shall be charged with the management and operation of all public works and the regulation under ordinances of the City Commission of all charitable and correctional institutions and agencies of the City. Also the City Manager, if one be appointed, shall enforce all laws, ordinances and regulations relative to the preservation and promotion of public health; shall manage and inspect water, lighting, heating, power and transportation enterprises of the City; he shall manage and control market houses, crematoriums, sewage disposal plants and farms, and he shall enforce all the obligations of owned or operated public utilities which are enforceable by the City; he shall have charge of the making and preservation of all surveys, maps, plans, drawings and estimates for such public works, and the preservation of tools and appliances belonging to the City, and pertaining to the functions of its several departments. This department, among other duties, shall be charged with the efficient and proper administration of waterworks and sewage facilities. If no City Manager be appointed, the aforesaid duties may be performed by such officials and agents as the City Commission shall direct.

DEPARTMENT NUMBER III

Section 43. Streets, parks and docks department, which shall include the management of cemeteries.

A Commissioner, by ordinance, shall be responsible for this department, where there is no City Manager.

The City Manager, if one be appointed, shall manage and control streets, parks, docks and cemeteries, and shall be charged with the management, operation and regulation of same under ordinance of the City Commission. Also the City Manager, if one be appointed, shall manage and control the use, construction, improvement, repair and maintenance of all recreational facilities of the City, including parks, playgrounds and public gymnasiums and public centers; he shall manage and supervise all public improvement, works and undertakings for the City, except as otherwise provided; he shall have charge of the construction, improvement, repair and maintenance of streets, sidewalks, alleys, bridges, lanes, viaducts, public highways, drains, ditches, streams, culverts, watercourses, channels, docks and terminals. He is authorized to appoint a Harbor Master to police, manage and regulate any and all harbors within the City Limits of the said City, including the speed of vessels, and the fees of the said Harbor Master, for his services, shall be regulated by ordinance and shall be reasonable, and the Chief of Police may be appointed Harbor Master and authorized to perform the said duties along with his other duties. Also, he shall have charge of the making of plans and their execution for improvement and construction of City docks and City dock facilities and the administration of same, the cleaning, sprinkling and lighting of streets and public places, and general improvement thereof; he shall have charge of the maintenance and improvement of cemeteries and is authorized to provide for their upkeep by collection of fees for said maintenance and upkeep as provided by ordinance.

DEPARTMENT NUMBER IV

Section 44. Fire protection, health and sanitation.

A Commissioner, by ordinance, shall be responsible for this department, when there is no City Manager.

The City Manager, if one be appointed, shall be charged with the management and control of the fire protection, public health and sanitation.

Section 45. Fire Force.

The Fire Force of the City shall consist of a chief, who shall be Fire Warden, and as many subordinate officers, firemen and employees as the City Commission shall, by ordinance, determine, all of whom shall be appointed by, and serve during the pleasure of, the City Manager, or if there be no City Manager then they shall be appointed by, and serve during the pleasure of, the City Commission. The Fire Chief shall have

exclusive control of the stationing and transfer of all firemen and other officers, firemen and employees of the Fire Force subject to such rules and regulations as may be prescribed by the City Manager, if one be appointed, or by ordinance of the City. He shall have exclusive management and control of such officers, firemen and employees as may be employed in the administration of the affairs of the Force. In case of riot, conflagration or like emergency, the City Manager, or if there be no City Manager, then the Mayor, may appoint additional firemen for temporary service. The Fire Chief shall have the right to suspend any officer, fireman or employee of the Fire Force because of incompetency, neglect of duty, drunkenness, failure to obey orders given by proper authority or for any other just or reasonable cause, and he shall immediately report the fact of such suspension to the City Manager, or if there be no City Manager, to the City Commission for final action.

Section 46. Public health.

The City Commission, or the City Manager, when authorized by ordinance of the City Commission, may appoint a City Health Officer, whose duty it shall be to enforce the rules and regulations of the State Board of Health and the ordinances of the City relative to the preservation and promotion of the public health and to recommend such action from time to time as he may deem necessary for the prevention, abatement and suppression of nuisances and for the preservation of the life and health of the inhabitants of the City. The City Health Officer will also perform such duties with regard to the sanitary inspection of the City and supervision of the production, transportation, storage and sale of food and foodstuffs as is necessary and proper; he will keep or cause to be kept a complete and accurate system of vital statistics; and will perform such other duties as may from time to time be required of him by the City Commission or the City Manager, if one is appointed.

DEPARTMENT NUMBER V

Section 47. Department of finance, records and audit.

A Commissioner, by ordinance, shall be made responsible for this department, when there is no City Manager.

Section 48. City Auditor and Clerk; duties of.

There shall be a City Auditor and Clerk, who shall be appointed by and serve during the pleasure of the City Commission and who, under the supervision of the City Manager, if one be appointed, shall be director of the Department of Records and Audit. He shall issue all warrants for the payment of money by the City; shall keep an accurate account of all taxes and assessments, of all moneys due to, and of all receipts and disbursements by the municipality; of all of its assets and liabilities and of all appropriations made by the City Commission. He shall submit to the City Commission at its first meeting in each month a complete and comprehensive report covering the last preceding month showing the receipts and expenditure and the financial condition

of the City. He shall make and keep a list of the outstanding City bonds and debentures, showing to whom issued, for what purpose, when and where payable and the rate of interest they respectively bear and he shall recommend such action from time to time to the City Commission as will insure the punctual payment of principal and interest of such obligations. He shall furnish the City Commission and the City Manager, if one be appointed, at any time such reports, data and information as may be necessary to fully inform them as to the financial affairs of the City, furnishing such estimates of the expense of the City Government as may be necessary to form the basis of the annual budget and to determine the revenue necessary to be raised each year.

Section 49. Preparation of estimates.

He shall make, or cause to be made, estimates of the expense of any work to be done by the City, shall countersign all contracts made in behalf of the City, and certificates of work authorized by the City Commission or any other city official. No contracts made in behalf of the City or to which the City is a party, shall be valid unless countersigned by the City Auditor and Clerk; he shall keep regular books of account, in which shall be entered all indebtedness of the City and which shall at all times show the financial condition of the City, the amount of bonds, debentures, orders, certificates or other evidences of indebtedness outstanding and the amount of all bonds, debentures, orders, certificates or other evidences of indebtedness which have been redeemed; he shall countersign all bonds, debentures, orders, certificates or other evidences of indebtedness of the City and keep accurate account thereof, which account shall show for what purpose issued, to whom and the amount thereof; he shall keep account with all disbursing officers and employees of the City, showing the amounts they have received from different sources of revenue, and the amount they have disbursed, as authorized under the ordinances of the City. He shall keep a list of all certificates issued for work or for any other purpose, and before the levy by the City Commission of any special tax upon any property in the City or any part thereof, he shall furnish to the City Commission, a schedule of all lots or parcels of lands which may be subject to the proposed tax or assessment and which it may be necessary to levy on, which said schedule shall be certified by his affidavit and shall be prima facie evidence of the facts stated therein, in all cases wherein the validity of such tax or assessment shall come in question. Acting upon such schedule the City Commission may, if they deem such special tax or assessment legal and just, cause the same to be levied.

Section 50. Certificate of funds.

No contract, agreement, or other obligation involving the expenditure of money shall be entered into, nor shall any ordinance, resolution or order for the expenditure of money passed by the City Commission or be authorized by any officer of the City, unless the City Auditor and Clerk first certifies to the City Commission or to the proper officer, as the case may be, that the money required for such contract, agreement, obligation or expenditure, is in the Treasury to the credit of the fund from which it is

drawn, and not appropriated for any other purpose, which certificate shall be filed and immediately recorded. The sum so certified shall not thereafter be considered unappropriated until the City is discharged from the contract, agreement or obligation. All moneys actually in the Treasury to the credit of the fund from which they are drawn, and all moneys applicable to the payment of obligation or appropriations involved, that are anticipated to come into the Treasury before the maturity of such contract, agreement or obligation, from taxes or assessments, or from sales or services, products or by-products, or from any City undertaking, fees, charges, accounts and bills receivable, or other claims in the process of collection, and all moneys applicable to the payment of such obligation or appropriation, which are to be paid into the Treasury prior to the maturity thereof, arising from the sale or lease of lands or other property and the money to be derived from lawfully authorized bonds sold and in process of delivery, shall, for the purpose of such certificate, be deemed in the Treasury to the credit of the appropriate fund and subject to such certification.

Section 51. Audit and certification of claims.

All claims and demands against the City, before they are allowed by the City Commission, shall be examined and adjusted and their correctness certified by the City Auditor and Clerk. He shall keep a record of his accounts and doings and a record of all contracts to which the City is a party, with an index thereto, and such books shall be open to the inspection of all parties interested.

Section 52. System of accounts and forms.

The City Auditor and Clerk shall prescribe and require, except as there may be prescribed and required by law, the use of plain and uniform systems of keeping books of accounts by all City departments, officers or employees who are charged with the receipt or disbursement of any of the funds of the City, or who may be authorized to purchase materials or supplies or to employ labor for the City; he shall prescribe the forms of vouchers or other evidence of the receipt of moneys from the City or for the establishment of demands against the City; he shall require a daily report from each department, office, officer, or employee of the City receiving and disbursing funds of the City, showing all sums received and disbursed, from what source and for what purpose.

Section 53. Audit of accounts.

At the end of each fiscal year, and oftener if so required by the City Commission, he shall audit the accounts of the several departments, officers and employees, and shall audit all other accounts in which the municipality is interested. He shall at all times have access to and may inspect and take copies of all books on which entries are made or are required to be made, relating to the receipt or expenditure of money on account of the City and all vouchers, accounts, bills, warrants, drafts, contracts or other papers relating thereto.

Section 54. May administer oaths.

He shall have power to administer oaths for the purpose of ascertaining the facts relating to any charge or claim against the City, made or claimed by any person, partnership, association or corporation whatsoever; he shall inquire into and inform himself as to the legality of all claims to be paid out of the City Treasury or the reasonableness of the prices charged or claimed for materials, supplies or labor and the facts as to the delivery or rendition thereof to or for the use of the City, and for this purpose he shall have power to require evidence that the amount of any claim is justly due and in conformity to law and ordinances, and for that purpose he may summon before him any officer, agent or employee of any department of the municipality, or any other person and examine him upon oath or affirmation relative thereto.

Section 55. Financial records and reports.

The accounting procedure established in the office of the City Auditor and Clerk shall be adequate to provide a record in detail of all transactions effecting the acquisition, custodianship and disposition of values, including cash receipts and disbursements, and such facts shall be so presented in the reports which he is required to render periodically, and shall be supported with such summaries and analytical schedules as may be necessary to show in detail the full account of such transactions for each fiscal year, upon the finances of the City and relation of each department of the City Government, including distinct summaries and schedules for each public utility owned and operated.

Section 56. Close and audit of accounts of officials.

Upon the death, resignation, removal or expiration of the term of any officer, the City Auditor and Clerk shall audit his accounts and if such officer shall be found to be indebted to the municipality, the City Auditor and Clerk shall at once give notice thereof to the City Commission and to the City Attorney and the latter shall forthwith proceed to collect the sum of such indebtedness.

Section 57. Duties in connection with City Commission.

The City Auditor and Clerk, in his capacity as Clerk of the City, shall attend all meetings of the City Commission and shall keep a journal of its proceedings, the correctness of which proceedings as entered in such journal shall be certified to after each meeting by his signature and by the signature of the presiding officer of the City Commission. He shall be the custodian of the seal of the City and of all records and papers of a general character pertaining to the affairs of the municipality.

Section 58. Assessor of Taxes.

The City Auditor and Clerk shall be ex officio Assessor of Taxes for the City.

Editor's note—The city auditor and clerk no longer exercises any duties in respect to the assessment of taxes. Tax assessments are now made by the county under the provisions of state law. For further details, see F.S.A., title XIII, Taxation and Finance.

Section 59. Other duties.

In addition to the duties specifically imposed under this Charter, the City Auditor and Clerk shall perform such other duties as may be required of him by ordinance or resolution of the City Commission, as well as such as may be required of City Auditors, City Clerks and City Tax Assessors by the General Laws of the State, applicable to municipalities and not inconsistent with this Charter or with any ordinance or resolution passed by the City Commission.

[ARTICLE VIII.] DEPARTMENT OF FINANCE**Section 60. City Treasurer and Collector.**

There shall be a City Treasurer and Collector who shall be appointed by and serve during the pleasure of the City Commission and, who, under the supervision of the City Manager; if one be appointed, shall be director of the Department of Finance. As City Treasurer he shall be the custodian of all moneys of the municipality and shall keep and preserve the same in such manner and in such place or places as shall be determined by the City Commission. He may, with the approval of the City Commission, select and use a bank or banks as depository or depositories for current funds of the City, either at interest or without interest; provided, that if required by the City Commission, such security as the Commission shall specify shall be required by the Treasurer from such depositories with respect to such funds and deposits. The City Treasurer shall also be custodian of the sinking fund of the City, under the direction of the Trustees of the Sinking Fund, as provided elsewhere in this Charter.

Section 61. Interest upon investments or deposits.

All moneys due as interest upon investments or deposits shall be collected by the City Treasurer and Collector and placed to the credit of the General Fund of the City, and any and all bonds and securities taken for investments and deposits shall be held by the City Treasurer and Collector for safekeeping for the benefit of the City.

Section 62. Collections.

He shall receive and collect all moneys belonging to the City, including taxes, license moneys, fines and income from all other sources and he shall collect all special assessments as provided for under this Charter and keep accurate account thereof.

Editor's note—The city no longer is responsible for the collection of ad valorem taxes. This is now the function of the county. See F.S.A., title XIII, Taxation and Finance, for further details.

Section 63. Payments: How made.

He shall pay out moneys only on the warrants of the City Auditor and Clerk countersigned as the City Commission shall require, except bonds or other evidences of indebtedness and interest coupons thereof, which, when due, may be paid upon

presentation, or in case the same are payable in some place other than the City of Apalachicola, then the money for their redemption or payment shall be sent to such other place.

Section 64. Accounts of City Treasurer and Collector.

The accounts of the City Treasurer and Collector shall be examined at the end of each month by the City Auditor and Clerk, to whom the City Treasurer and Collector shall turn over all warrants, interest coupons, bonds or other evidences of the indebtedness of the City which may have been redeemed or paid by him during the month, taking the receipt of the City Auditor and Clerk therefor, and all such warrants, interest coupons, bonds or other evidence of the indebtedness of the City so turned over shall be canceled by the Treasurer and have written or stamped thereon the date of their payment or redemption.

Section 65. Monthly report.

At the first meeting of the City Commission in each month the City Treasurer and Collector shall submit a detailed report of receipts and disbursements, which report shall be rendered through the City Auditor and Clerk and bear certificates of the latter as to its correctness.

Section 66. Warrants: How paid.

All warrants shall be paid in the order in which they are presented, out of the moneys in the respective funds on which they are drawn. But no warrant for the payment of money shall issue on any fund of the municipality unless and until there are moneys to the credit of the fund to be drawn on with which to pay such warrant.

Section 67. Account of each fund.

The Treasurer and Collector shall keep a separate account of each fund or appropriation and of the debits and credits pertaining thereto. He shall prepare receipts in duplicate for all moneys paid into the City Treasury, delivering the original receipt to the person paying the same and retaining the duplicate to be turned over to the City Auditor and Clerk at the time of his monthly settlement with that officer.

Section 68. Moneys received on account of special assessments.

All moneys received on account of any special assessment shall be paid by the City Treasurer and Collector as a special fund from which payment shall be made only on account of the improvement for which such assessment was made and such money shall be used for no other purpose whatsoever; provided that when the object and purpose of any such special assessment has been fully completed and paid for, any balance remaining may be transferred to such fund as the City Commission shall by resolution direct.

[ARTICLE IX.] TRUSTEES OF SINKING FUND**Section 69. Trustees: Their duties.**

The members of the City Commission shall constitute the Trustees of the Sinking Fund and as Trustees of the Sinking Fund shall be the Trustees of such bonds as may be issued from time to time for legally authorized municipal purposes and shall manage and control the sinking funds created for the liquidation of such bonds subject to the provisions of the General Laws of the State and the ordinances of the City with relation to the management of such funds.

[ARTICLE X.] ADVISORY BOARDS**Section 70. How constituted.**

The City Commission may at any time appoint an Advisory Board or Boards, composed of men or women who are residents and real property taxpayers of the City of Apalachicola qualified to act in an advisory capacity to the City Commission, the City Manager, if one be appointed or to any department of the City Government, with respect to the conduct and management of any property or institutions or the exercise of any public functions of the City. The members of any such Board shall serve without compensation for the time fixed in their appointment, or at the pleasure of the Commission, and their duties shall be to consult and advise with such municipal officers and make written recommendations which shall become part of the records of the City.

[ARTICLE XI.] FINANCES AND TAXATION**Section 71. Fiscal year.**

The fiscal year of the City shall begin on the first day of January of each year and end on the last day of December of each year.

Editor's note—The fiscal year of the city now runs from October 1 to September 30 by virtue of state law. See HB 1176(1973) for further details.

Section 72. Annual estimate.

The City Manager, or if there be no City Manager, then the City Auditor and Clerk in his annual report covering the operation of the City which it shall be his duty to make and submit to the City Commission covering the fiscal year, shall set forth an estimate of the expenditures and revenues of the City for the ensuing fiscal year. This estimate shall be compiled from detailed information and in its arrangement the classification of expenditures shall be as nearly uniform as possible for the main functional divisions and departments of the City and shall give in parallel columns the following information:

- (a) Detailed estimate of the expense of conducting each department and division of City Government, including all public utilities and enterprises conducted by the City.
- (b) Expenditures for corresponding items during the two fiscal years last past.
- (c) Amount of supplies and material on hand.
- (d) Increase of demands compared with the corresponding appropriation for the last fiscal year.
- (e) Such other information as is required by the City Commission or as the City Manager or City Auditor and Clerk, as the case may be, may deem advisable to submit.

The estimate so given and constituting the recommendation of the City Manager or the City Auditor and Clerk, as the case may be, as to the amount necessary to be appropriated for the ensuing fiscal year shall be supported with information giving the reasons therefor in such detail as may be necessary to afford the City Commission a comprehensive understanding of the needs and requirements of the various divisions of the City Government for the ensuing period.

Sufficient copies of such annual report and estimate shall be prepared that there may be copies on file in the office of the City Auditor and Clerk for inspection by the public.

Section 73. Appropriation ordinance.

The City Commission shall carefully consider such estimates before passing an appropriation ordinance for the ensuing year. After such appropriation ordinance has been introduced and before passage, the City Commissioners shall cause same as introduced to be published one time in a local newspaper of general circulation in the City of Apalachicola, and if there be no newspaper published in said City, then by posting in five conspicuous places within the corporate limits of said City, one of which shall be the City Hall, and shall state in said publication the time and place same will be acted on finally, and shall also in such notice state that the estimate upon which same is based is on file for inspection of the public at the office of the City Auditor and Clerk, and such ordinance shall not be passed by said City Commission until after five days after such publication.

Section 74. Revision of appropriation.

If at the beginning of the term of office of the first City Commission elected under this Charter, the appropriations for the expenditures of the City Government for the current fiscal year have been made, then the said City Commission shall have power by ordinance to revise, to repeal or change said appropriation and make additional appropriations for that year.

Section 75. Transfer of funds.

The City Commission may transfer any part of an unencumbered balance of an appropriation to a purpose or object for which the appropriation of the current year has proved insufficient, or may authorize a transfer to be made between items appropriated to the same office or department.

Section 76. Limitation on appropriations.

At the close of each fiscal year the unencumbered balance of each appropriation shall revert to the respective fund from which it was appropriated and shall be subject to future appropriation. Any accruing revenue of the City, not appropriated as hereinbefore provided, and any balance at any time remaining after the purpose of the appropriation shall have been satisfied or abandoned, may from time to time be appropriated by the City Commission to such use as will not conflict with any uses for which specifically such revenues accrued. 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 the appropriation made by the City Commission.

Section 77. Payment of claims.

No warrant for the payment of any account or claim shall be issued by the City Auditor and Clerk until such account or claim shall have been approved by the head of the department for which the indebtedness was incurred and by the City Manager, if one be appointed.

Section 78. Levies.

The City Commission shall have the right to raise by taxation on the taxable property within the corporate limits of the City of Apalachicola, and on licenses, such amounts as may be necessary for the ordinary purpose of the municipality. The words "ordinary purposes" mean all expenses for salaries of officers, employees, police, and fire force and equipment maintenance, improvement and cleaning of streets and public grounds, illumination, water, incidental expenses of administration, and all other purposes strictly municipal in their character and which are annual and continuing including reasonable expenses for advertising and promoting the interest of the City through recognized advertising mediums and for promoting the welfare of the people of the City by such means as will contribute to making the City more attractive as a place of residence or for the location of business enterprises. That for the purposes of the advertising as aforesaid the City Commission may levy annually a tax of not more than one-half mill on the dollar of the assessed valuation of all taxable property in the City Limits. The City may also levy and collect annually upon its taxable property such sums as may be required for the payment of interest upon the indebtedness of the City and for the maintenance of its properties and works; to create sinking funds for the payment of existing indebtedness which hereafter may be incurred and pay the bonds of the City either heretofore or hereafter issued in accordance with law.

Section 79. Rate of assessment.

The percentage of taxation herein authorized shall in such case be upon the valuation of the taxable property in said City as set forth in the City assessment roll; provided, that all taxes shall be uniform upon the same classes of property within the corporate limits of the city and that all property shall be assessed at its full cash value. The term "Full Cash Value" as used herein shall be construed to mean the price at which the property would sell if voluntarily offered for sale by the owner thereof, upon such terms as like property is usually sold, not at the price which might be realized if sold at a forced sale.

Section 80. Tax Assessment Roll.

All property within the City taxable for State purposes shall be assessed and listed for purposes of general taxation on the City Tax Assessment Rolls, in the name of the owner when the name of such owner is known to the assessor, or shall be listed in the manner of such persons as the assessor shall, from his best information, believe to be the owners thereof, and in case the assessor shall have no knowledge or belief as to the ownership of any such property, he shall assess same as belonging to an unknown owner. Each lot and separate tract of land shall be assessed separately, except that at the written request of the owner of lots or tracts of land adjoining each other or when such owner makes return thereof in such manner, such adjoining lots or tracts of land may be assessed together. The assessor shall make diligent inquiry as to the ownership of real and personal property subject to taxation, and shall endeavor to assess all such property in the name of the owner; but no assessment shall be held invalid by reason of error in naming the owner or supposed owner of the property assessed, or by reason of assessing the same as belonging to an unknown owner.

Editor's note—The county is responsible for the assessment and collection of all ad valorem taxes. For further details, see F.S.A., title XIII, Taxation and Finance.

Section 81. Date of assessment.

All property shall be assessed as of the first day of January of the year in which such assessment is made, and all taxes shall be a lien from said date.

Section 82. Preliminary assessment roll.

Upon his preliminary assessment roll the City Auditor and Clerk as ex officio tax assessor, shall indicate, in some convenient manner, the property subject to taxation for each of the purposes for which taxation is authorized, said assessment roll shall be completed by the assessor and submitted to the Equalizing Board on the first Monday in July of each year.

Section 83. Correction of assessment.

If the City Auditor and Clerk, in his capacity as ex officio assessor of taxes, in making his assessments, shall discover that any land in the City was omitted in the

assessment roll of either or all of the three previous years, or that any land was illegally sold for taxation and is then liable to taxation, he shall assess such lands for the next fiscal year and shall also assess the same separately for each such year or years as may have been omitted or was illegally sold for taxes, at the cash value thereof which would have been legal and proper at the time, noting distinctly the year or years when such omission occurred, and such assessment shall have the same effect as if made in the year or years when assessments were omitted, and the taxes shall be levied and collected thereon in like manner together with the taxes for the year in which the current assessment is being made; but no land shall be assessed for more than three years' arrears of taxes, and all lands shall be subject to be assessed into whomsoever's hands they may come.

Section 84. Returns.

All persons, corporations or firms owning property, whether real or personal, subject to taxation by the City of Apalachicola, shall be required to make return of the same before the first day of April in each year of [to] the City Auditor and Clerk in his capacity as ex officio tax assessor of the City. Such returns shall be made upon and in conformity with blanks prepared and to be supplied for such purpose through the office of the City Auditor and Clerk, and such return shall contain a complete list of all the property taxable by the City belonging to such person, corporation or firm, for which such return is made, together with the full cash value therefor, giving separately an intelligible description and full cash value of each separate lot and parcel of real property; which description and valuation thus returned may be considered by the assessing officer in making assessments, but he shall not be bound thereby. Should any person, corporation or firm omit to make such return, as above required, the assessing officer shall assess the property not thus returned in the name of the owner, if the owner shall be known to him, and where the name of the owner is not known to him; he may assess it in the name of the supposed or reputed owner or occupant, or as belonging to an unknown owner, and in no case where the real owner has failed to make return of his property as herein required, shall the assessment thereof be declared invalid or as not lawfully made, or the enforced payment of taxes thereon be refused by reason of such property being assessed otherwise than in the name of the real owner.

Section 85. Assessment of property of transportation companies.

Railway and railroad companies, telephone and telegraph companies, shall be subject to taxation on all real and personal property owned by them or operated within the limits of the municipal corporation, in the same manner and at the same rate of valuation as all other property. The property of street railway companies whose lines or tracks lie within the corporate limits of said City shall be assessed in like manner as other property is assessed and at the full cash value of the entire property. Franchises and privileges owned by street railway, telephone and telegraph companies and other corporations, part of which is, and part of which is not, subject to taxation for the various purposes other than ordinary municipal purposes, shall be so assessed as to show the valuation or part of the whole valuation, subject to taxation for each purpose.

In assessing property of railway, street railway, telephone and telegraph companies, the City Auditor and Clerk, in his capacity as ex officio assessor, shall specify what property is assessed as used for right-of-way and depot property by such description as will clearly define the property covered by that assessment, and their property other than that so described and assessed shall be separately assessed by sufficient description as is other property, each lot, part of lot, or tract being assessed separately, except that the City authorities may, at the request of the company or its agents, assess several pieces together; and the description, assessments and valuation shall be subject to be checked, corrected and fixed by the Equalizing Board of the City.

Section 86. Personal property.

The City of Apalachicola shall have the right to tax as personal property, all buildings or structures owned by private individuals, corporations or firms and located upon public lands, the use of which for private purposes has been allowed such individuals, corporations or firms under revocable license or other form of grant.

Section 87. Licenses.

The City Commission is authorized to levy, impose and collect license taxes for the purposes of regulation and revenue, upon any and all businesses, privileges, professions, vocations, trades, and occupations carried on or engaged in, either wholly or in part, within the corporate limits of the City of Apalachicola, and to determine the amounts and methods of computation of such license taxes, which amounts and methods of computation shall not be dependent upon, limited or restricted by General Law of this State; to provide for the collection of same; to provide for the periods for which such licenses shall be effective and the conditions under which they may be transferred. The agent or agents of nonresident proprietors shall be severally responsible for carrying on business in like manner as if they were proprietors. The fact that any person, firm or corporation reported himself or itself as engaged in any business calling, profession or occupation for the transaction of which a license is required or that such person, firm or corporation exhibited a sign or advertisement indicating engagement in such business calling, profession or occupation, shall be conclusive of the liability of such person, firm or corporation to pay a license.

All such license taxes, so imposed, shall constitute a legal indebtedness to the City, which may be recovered in any Court of competent jurisdiction, and no property of such debtor shall be exempt from force sale, after due process of law, for such indebtedness.

The City Commission may, by ordinance, provide for licensing the keeping of dogs and for the destruction of dogs, the owners or keepers whereof shall not comply with the regulations prescribed by ordinance with respect thereto, and for the punishment of persons violating the City ordinances on this subject.

Section 88. [Excise taxes.]

The City Commission is authorized to levy, impose and collect excise taxes upon the manufacture, purchase, sale, consumption, use or storage of, or the privilege of selling, buying, using, consuming, storing or distributing for sale, use, consumption or storage, commodities, services, entertainments, amusements, admissions, goods, wares, merchandise, or other property, either real or personal, within the corporate limits of the City, and to determine the amounts and methods of computation of such taxes and the subjects upon which they are levied, which amounts and methods of computation and subjects shall not be dependent upon, limited or restricted by general State law; to provide for the collection of same; and to provide for penalties for the violation of the ordinance or ordinances enacted for the purpose of levying, imposing, and collecting such taxes; provided, that the City Commission shall not levy, impose, or collect any such excise tax until the ordinance, levying and imposing such tax, first passed and adopted by the City Commission, shall be approved by a majority of the votes cast by the qualified electors voting at a municipal election, general or special, at which such question shall have been submitted to said electors; provided further, that nothing in this section shall be construed to invalidate any existing taxing ordinance of the City of Apalachicola.

[ARTICE XII.] EQUALIZING BOARD

*Tax Info
Discrepancy*
Editor's note—The provisions of this article have been superseded by state law. Tax assessments are now reviewed by the county board of tax adjustment. For further details, see F.S.A., ch. 194. All tax assessments and collections are made by the county under state law. For further details, see F.S.A., title XIII, Taxation and Finance.

Section 89. How composed.

The Equalizing Board of the City shall be composed of the members of the City Commission and it shall meet on the second Monday in July of each year. The City Auditor and Clerk shall be the clerk of such Board and shall keep accurate records of all the changes made in the valuation of property and all other proceedings of such Board.

Section 90. May adjourn from time to time.

The Equalizing Board may adjourn from day to day until its work is completed and three members shall constitute a quorum to transact business. If no quorum is present the members present, or the City Auditor and Clerk in the absence of all members, may adjourn the Board from day to day and publicly announce the time to which the meeting is to be adjourned.

Section 91. Notice of meeting to be published.

Annually, not earlier than fifteen days and not later than five days prior to the meeting of the Equalizing Board provided for in the foregoing paragraphs, the City Auditor and Clerk shall cause to be published in a newspaper published and of general circulation in the City, or if there be no such newspaper, then he shall cause to be posted in three conspicuous places in said City, one of which shall be the City Hall, notice that the City assessment roll will be submitted to the Equalizing Board for approval on the date and at the place and time fixed for such meeting and requiring all persons desiring to have corrections made in such roll, whether in the listing, valuation of property or otherwise, to file with him on petitions setting forth their objections to such assessment and the corrections which they desire to have made.

Section 92. Complaints to receive consideration.

All petitions for the correction of assessments so filed with the City Auditor and Clerk shall be delivered by him to the Equalizing Board with the City assessment roll at the first meeting of the Board in July and the Equalizing Board, sitting at the usual meeting place of the City Commission, shall receive, consider and act upon said petition and shall give such petitioners or their agents permission to be heard in person or by their attorney, in open session, until a proper and equitable determination of the merits of the complaint or complaints may have been made.

Section 93. Equalizing and correction of assessment roll.

The Equalizing Board shall have the right to change the valuation or assessment of any real and personal property upon the roll by increasing or decreasing the assessed valuation thereof as shall be reasonable and just to render taxation uniform; provided, that the valuation of any real or personal property, as returned by the assessor, shall not be increased without first giving the owner or his agent notice of the intention of the Board to so increase it. Such notice shall be by personal service upon the owner or agent or by leaving a copy of the written notice at his usual place of business or last place of residence and shall state therein the time when the Board will be in session to act upon the matter.

Section 94. Omissions from assessment rolls.

The Equalizing Board must place upon and add to the assessment roll any property, real or personal, subject to taxation, which has been omitted therefrom by the owner by the assessor and enter the same at such valuation that it will bear an equal and just proportion of taxation.

Section 95. Sessions to be open.

During the sessions of the Equalizing Board it shall be open to the public. Any person, or his attorney or agent, feeling aggrieved by anything in the assessment roll

may apply to the Equalizing Board in person for the correction of alleged errors in listing or inequalization in the value of his property, whether real or personal, and the Board may take such action as it may deem just and proper in the premises.

Section 96. Failure to return property for taxation.

If the Board has reason to believe that any person has failed to return to the assessor all property required by law to be returned or if any person refuses to swear to the return which he has made, the Board may notify the person who has failed to make return or to swear to same, requiring him to appear, and may examine such person on oath in regard to the property in question and if such person so notified refuses to appear, the Board may fix the valuation of the property as such sum as is deemed just and proper.

Section 97. Appeal from Board.

Any person feeling aggrieved at any decision of the Equalizing Board in any matter that he has called upon such Board to correct, alter or change with reference to the listing or valuation of his own property may appeal to the Circuit Court of the Judicial Circuit in which the City of Apalachicola may be situated.

Section 98. Completion of roll.

All changes made by the Equalizing Board shall be noted in the assessment roll by the City Auditor and Clerk, and within ten days after the Equalizing Board shall have concluded its examination and correction of said roll, it shall be submitted in corrected form duly certified by the City Auditor and Clerk as having been corrected and equalized by the Equalizing Board, to the City Commission, and upon approval and adoption by the City Commission, shall stand as the assessment roll that year of the taxable property within the City.

Section 99. Levy by the City Commission.

As soon as practicable after the receipt of the assessment roll, the City Commission shall determine the amount and fix the rate of taxation and make the annual tax levy for the current year. The City Auditor and Clerk shall note the said several levies on the assessment roll and shall reject in his calculations the fraction of a cent when less than half and count it as one cent when any such fraction is one-half or over. He shall enter upon said assessment roll such recapitulation as may be necessary to show clearly and concisely the totals of the various tax levies made and he shall make a copy of said assessment roll with the levies extended thereon and deliver the same to the City Treasurer and Collector retaining the original roll in his office. To the assessment roll and copy thereof delivered to the City Treasurer and Collector, he shall attach a certificate and warrant substantially in the following forms, respectively:

"I, _____, City Auditor and Clerk and Ex Officio Tax Assessor of the City of Apalachicola, do hereby certify that the foregoing is the assessment roll of the

taxable property in the City of Apalachicola, valued at its full cash value, and that it contains a true statement and description of all personal and real property in the said City of Apalachicola subject to taxation by said City, and liable to be assessed therefor; that the listings and valuations are as corrected by the Equalizing Board and as approved and adopted by the City Commission; and that all requirements of law and ordinances regulating the making of the assessment roll for the City of Apalachicola, have been complied with.

Date _____

 "City Auditor and Clerk, Ex Officio Assessor."

"State of Florida, City of Apalachicola.

"To _____

"City Treasurer and Tax Collector, City of Apalachicola"

"You are hereby commanded to collect out of the property and from each of the persons, corporations and firms named in the annexed roll, the taxes set down in such roll, opposite the name of each such person, corporation, or firm, or parcel of land described; and in case the taxes are not paid at the time prescribed by law, you are to collect the same in such manner as is provided by law, and all sums collected you are to hold and account for as required by law and ordinances.

"Given under my hand this ____ day of _____, 19____

" _____

"City Auditor and Clerk, Ex Officio Assessor."

Section 100. Failure to pass tax levy.

If, in any year, the City Commission shall fail to pass a levy ordinance, or if the levy ordinance in any year shall be invalid or inoperative, the return of taxes for the fiscal year shall be the same as it was the year before, item for item.

Section 101. Description of classes of property.

For the purpose of assessment, the soil shall be known as "Land" and everything attached thereto shall be known as "Improvements" and such "Improvements" when owned by the tenant, may be assessed in his or her name apart from the land. Articles other than "Land" or "Improvements" shall be known as "Personal Property."

Section 102. Taxes shall be a lien until paid.

Until paid, all City taxes on real estate and personal property within the City, together with all interest and other penalties consequent on delinquency in the payment thereof, shall be and continue a lien upon the property assessed, superior and prior to all other liens, save State and County tax liens, with which liens the lien of said City taxes shall stand on an equality, and shall relate to the first day of January of the year in which they are levied, and taxes on real property shall be and remain a

lien thereon as aforesaid, and neither the said lien, nor any proceedings to enforce it or to collect the taxes on such real property shall be barred by any statute of limitations now existing, nor shall said lien, or any such proceedings, be held to be barred by any statute of limitations hereafter enacted which does not in express terms refer to the lien of the taxes of the City of Apalachicola; and the said lien of said City taxes shall not be divested by any State or County tax sale, nor by any deed based on any State or County tax lien. The pendency or delinquency of any tax on real estate in the City of Apalachicola, as evidenced by the assessment roll of said City, shall be held to be constructive notice to all persons of the existence of such lien, without any further or other record thereof.

Section 103. Time of payment.

All taxes on the assessment roll shall become due and payable on the first day of November of the year in which assessed. In the payment of taxes the following discounts shall be allowed by the City Tax Collector:

- For payment during the month of November, 4%
- For payment during the month of December, 3%
- For payment during the month of January, 2%
- For payment during the month of February, 1%
- For payment during the month of March, no discount

Taxes shall become delinquent at the close of business on the last day of March next following if not sooner paid.

Section 104. Interest on delinquent taxes.

All delinquent taxes, whether on real or personal property, shall bear interest at the rate of one per cent per month from and after the date on which such taxes become delinquent until paid; provided, that in every case of payment or collection of delinquent taxes, interest thereon shall be computed to include the entire month in which such payment is made, regardless of the day in said month on which payment may actually be made. Interest charges on delinquent taxes, as provided in this section and computed as aforesaid, shall be construed as a penalty for nonpayment of such taxes before said taxes became delinquent, and this penalty shall be in addition to any and all other penalties provided for in this Charter.

Section 105. Credit for errors or double assessments.

If the City Tax Collector discovers that any land has been assessed more than once for taxes of the same year, he shall collect only the tax justly due thereon, and shall make return of the balance as a double assessment, and shall be credited therefor by the City Commission. He shall also report to the City Commission any other errors or insolvencies for which he should be credited, under different headings, giving in each case the name of the party on whose account the credit is to be allowed.

Section 106. May issue distress warrants.

The City Treasurer and Collector shall have the power to issue distress warrants and alias and pluries distress warrants in the name of the State and City to enforce collection of taxes on property and privileges. Such warrants may be executed by the Chief of Police or by any Constable or Sheriff.

Section 107. Collection of taxes.

The City Commission shall have power to provide by ordinance for the collection of taxes by the sale of lands and personal property, but the method adopted shall conform in principle to that pursued in the collection of State and County taxes. Until such ordinance shall have been adopted the City Treasurer and Collector shall proceed substantially in the same manner in the collection of taxes and the sale of lands and personal property for nonpayment of taxes and licenses as do County Tax Collectors under State law; and he shall be subject to the same penalties as are prescribed by the State laws for any violation of the duties imposed on him by this Act. The method authorized and prescribed by this section for the collection of taxes by the sale of real and personal property shall not be exclusive and shall not limit or interfere with the right herein elsewhere conferred to enforce the lien for taxes on either real or personal property, or both, as other liens are or may be enforced. Where sales are made by the City Treasurer and Collector for taxes in substantially the manner provided by law to be pursued by County Tax Collector, he shall make reports in duplicate of such sales, and shall keep one of such duplicates on file in his own office and shall file the other with the Clerk of the Circuit Court of the Judicial Circuit in which the City of Apalachicola may be situated, who shall record the same in the record of tax sales in his office. The City Treasurer and Collector shall also file with the said clerk, a copy of the newspaper in which the tax sale advertisement was published, within ten days after the sale, and shall also file a copy in his own office. He shall procure and attach to each of said newspapers before filing, the affidavit of the publisher, proprietor, or foreman of such newspaper, that the tax sale notice contained therein was published for the time and the manner required by law, and specifying the issue of said paper in which said notice appeared. No report or notice of such sale shall be required to be filed with the State Comptroller; and no additional copies of said newspaper shall be required to be filed by the publisher with the Clerk of the Circuit Court. Where at any sale of property for taxes made by the City Treasurer and Collector there is no bidder who is willing to take the property and pay the taxes, cost and charges due thereon, the City Treasurer and Collector shall bid in the property for the City and shall issue to the City a tax sale certificate for such property. He shall be the custodian of such certificates and the same shall be redeemed through him. The City Treasurer and Collector shall make deeds in the name of the City for the lands sold by the City for taxes, and not redeemed within the time allowed by law, to the person entitled to such deed, upon application therefor, in the manner that tax deeds are made by the Clerk of the Circuit Court in the name of the State for lands sold by the County Tax Collector; and the City Treasurer and Collector shall be entitled to collect on behalf of and for said City the same fees for the said services as is received for like services by the Clerk

of the Circuit Court under the general law. Before issuing any such deed the City Treasurer and Collector shall determine whether there are other City tax certificates than that presented by the applicant outstanding against the land, and if there are, he shall require the redemption of such outstanding certificates before making the deed. Any person may purchase from the City Treasurer and Collector any certificate of land sold or certified to the City for taxes in the same manner as County tax certificates are purchased from the Clerk of the Circuit Court. When land is bid in by the City at tax sale and is not redeemed or the certificate sold by the City, the title at the expiration of time for redemption shall vest in the City without the issuing of any deed, as provided for in other cases, and the certificate shall be evidence of the title of the City.

[ARTICLE XIII.] FORECLOSURE OF TAX LIENS

Editor's note—The provisions of this article have been superseded by state law. The current procedure for foreclosure of tax liens is contained in F.S.A., ch. 197.

Section 108. Suit in Chancery.

In addition to any other powers granted to the City of Apalachicola under this Charter, or which may now or hereafter be available to it under the General Laws of Florida, to enforce the payment and collection of its taxes and tax liens, said City is hereby given the power and authority, in order to assist it in such enforcement, to institute suits in Chancery to foreclose any of its liens for unpaid taxes, in the manner hereinafter provided.

Section 109. Collector to deliver certified copies of assessments.

The City Tax Collector, upon being so instructed by resolution of the City Commission, shall make from the assessment roll a separate copy of any assessment thereon which shall be delinquent and unpaid, showing the assessment of any lot, parcel or tract of land, as the same then appears upon said assessment roll, which he shall certify to be true and correct copy from said roll of the assessment of the lot, parcel or tract of land therein described, and deliver the same to the City Attorney for collection, which certified copy shall be prima facie evidence of the contents of the assessment roll, and of the levies made thereon, as to the lot, parcel or tract of land therein described, and of the regularity and validity of all the proceedings on which the same is based, in all suits to enforce the payment of the lien of such taxes. The Tax Collector, upon delivering any such certified copy to the City Attorney, shall make appropriate entry on the assessment roll showing the fact of such delivery, with date thereof, and thereafter the collection of such tax shall be made by and through the City Attorney and not by or through the Tax Collector.

Section 110. City Attorney to bring suit.

The City Attorney, upon receiving any such certified copy of any assessment under the circumstances aforesaid, shall proceed to bring, in the Circuit Court having

jurisdiction, a bill in Chancery to foreclose the lien of the taxes so shown to be due and unpaid, and the penalties consequent thereon, which bill shall allege the City's lien against the real estate described, and shall be brought in the name of the City of Apalachicola, as complainant, against the person or persons named as owner or owners of the real estate described in such certified copy, if any person or persons be so named, and such other person or persons as the City Attorney may know, or have satisfactory reason to believe, to be the owner or owners, or interested in, such real estate, or to have any right or claim thereto, or lien thereon, except as tenants.

Section 111. Proper defendants.

The City Attorney, for the purpose of determining proper defendants, shall ascertain from the public records with respect to said lands, the name or names of the grantee or grantees in the latest recorded deed or deeds purporting to convey said lands, and also the name or names of all mortgagees, judgment creditors and lienors, or their assignees, holding unsatisfied mortgages, judgments or liens, not barred by statute, appearing to operate as liens on said land, and also the name or names of all other persons who appear from said public records to have or claim any interest in said lands, or lien thereon, as creditors, grantees, devisees, legatees, or otherwise. The complainant shall be entitled to recover in said suit the expense of ascertaining the names of proper defendants, as aforesaid, and such expenses shall be considered, treated and taxed as a part of its expenses, and shall be regarded as a further penalty for the nonpayment of the taxes within the time prescribed by law.

Section 112. May bring suit as to more than one parcel.

Instead of instituting separate suits on each piece or parcel of land on which the City holds a tax lien or liens, the City Attorney may, at his option, in the same suit, foreclose against more than one of such pieces or parcels of land, notwithstanding that all parties defendant may not have an interest, as owners or otherwise, in all of the parcels of land embraced in such suits; and no objection to the bill of complaint shall be allowed by reason thereof. In such cases, the costs and expenses shall be prorated and assessed against the different parcels of land as to the Court may seem equitable.

Section 113. Certain exhibits not required.

The City Attorney need not attach, as exhibits to his bill, either the original or copies of the assessments or liens which he seeks to foreclose by the bill.

Section 114. Service of process.

Service of process in such suits shall be the same as provided by the Laws of Florida for service or process in other Chancery suits. Except as otherwise herein provided, or necessarily implied, such suits shall be conducted agreeably to the rules of practice of the Circuit Courts of the State of Florida in Chancery proceedings to foreclose other liens.

Section 115. Redemption during foreclosure.

The right of redemption shall not be barred in any such foreclosure proceeding until the time named in the final decree; provided, that the amount required for such redemption, pendente lite, shall include all interest and all costs and expenses incurred in connection with the suit up to the date of such redemption, including a reasonable attorney's fee; but, such costs, expenses and fee may be prorated if redemption is sought as to a portion only of the lands involved in the suit.

Section 116. Attorney's fees.

The City Attorney shall be entitled to extra compensation from the City, equal to five per cent of all taxes and penalties collected by him without instituting suit and this amount shall be added to the tax and collected by the City as a further penalty consequent upon delinquency; and in all suits to foreclose tax liens, wherein the complainant shall prevail, such complainant shall be entitled to recover such reasonable attorney's fee as it shall have agreed to pay to its attorney for conducting such suit, or such fee as the court determines to be reasonable for the services performed or to be performed, and such fee shall be considered, treated and taxed as a part of its expenses, and shall be regarded, as a further penalty for nonpayment of the tax within the time prescribed by law.

Section 117. Sale and proceeds of sale.

The City of Apalachicola may, by resolution of the City Commission, be a bidder at any sale held under a foreclosure decree in a suit in which the City is the complainant, foreclosing one or more of its tax items, and may be represented for this purpose by any official or person who may be designated or delegated to perform the duty; but no bid made in behalf of the City shall exceed the aggregate sum decreed to be recovered with respect to the parcel bid upon, plus twenty-five per cent of such aggregate sum. In distributing the proceeds of any such sale, the costs shall first be paid, and next the amount decreed to be due the complainant; and the excess, if any, shall be paid into the registry of the Court to abide the further order of the Court. In no case shall a deficiency decree be granted in such foreclosure suit.

Section 118. City not confined to one method of collection.

The method of enforcing the lien of taxes, provided for in the preceding sections, shall not be held to repeal any other statute, insofar as such other statute provides an alternative method, otherwise available to the City of Apalachicola, for the enforced collection of taxes or the enforcement of tax liens; nor shall said method be held in any way to abridge or limit the said powers of said City, as provided for in any general law relating to municipalities, which might otherwise apply to and be available to the said City of Apalachicola; but such general law shall be deemed to provide a supplemental, additional, and alternative method of procedure for the benefit of said City, and shall be liberally construed to accomplish this purpose. And the said City of Apalachicola is hereby expressly authorized and empowered to enforce the collection and payment of

taxes and tax liens in any manner that is now, or may hereafter be provided by law for such enforcement by municipalities in general, or for the enforcement of collection and payment of State and County taxes and tax liens.

Section 119. Back taxes may be foreclosed.

The City of Apalachicola shall have the power to proceed in the manner provided by any of the foregoing sections to enforce the collection of any delinquent tax due the said City under its present Charter, or under any former Charter of said City of Apalachicola, together with all legal interest, expenses, and costs, in addition to having such power with respect to all taxes that may become delinquent hereafter.

Section 120. Appeal and supersedeas.

No appeal from a final decree entered in a suit brought under the provisions of this Charter for the foreclosure of a tax lien shall operate as a supersedeas, unless the appealing defendant or defendants shall first pay into the registry of the Court the full amount or amounts found to be due by and from them under the decree appealed from.

Section 121. Jurisdiction of Court.

Full and complete jurisdiction is hereby conferred upon the Circuit Court of the Judicial Circuit in which the City of Apalachicola is now or may hereafter be located, for the foreclosure or enforcement of liens as herein provided.

[ARTICLE XIV. PUBLIC IMPROVEMENTS]

Section 122. Bonds.

That the City Commission shall have the power to provide by ordinance for the issue and sale of negotiable bonds of said City for the purpose of purchasing, constructing, maintaining, operating, improving, enlarging, and extending the waterworks, electric lights and power and gas plants, and sewerage system of said City for rebuilding, reconstructing, and restoring the same, or any thereof; and for constructing, repairing, altering, enlarging, improving and finishing public buildings, including hospitals, schools, libraries, City Hall and other necessary public buildings for said City; and for grading and curbing, or grading, curbing and paving, and for altering, widening and repaving the streets, avenues and thoroughfares of said City, and doing the necessary drainage in connection with such work; and for sanitary and storm drainage; and the construction of canals, ditches and sewers for such drainage, within or without the corporate limits of the City; for construction, altering and repairing viaducts, bridges, underpasses and overpasses for carrying streets, avenues, or thoroughfares over or under any railroad track or tracks, in said City; for constructing, repairing and enlarging a municipal incinerator or incinerators, for the consumption of trash, garbage, and other refuse; for purchasing, constructing, repairing and enlarging docks, terminals and channels in Apalachicola Bay; for

funding any prerequisite bonded indebtedness; and for other lawful municipal purpose; but negotiable bonds of said City shall not be issued until the same shall have been approved by a majority of the votes cast in an election in which a majority of the freeholders who are qualified electors residing in said City shall participate; to be held in the manner prescribed by law.

Provided, however, that the total amount of such negotiable bonds to be issued and outstanding at any time shall not exceed fifteen per centum of the total assessed valuation of the taxable property, both real and personal, within the corporate limits of said City subject to municipal taxation, which said valuation shall be exclusive of the valuation of homesteads.

Section 123. Sidewalks.

The City Commission shall have power to order the laying of sidewalks along any or all of the public streets of the City, and to prescribe the width thereof, and the material to be used in their construction, and upon failure of the property owners to lay any such sidewalks so ordered, after thirty days' notice, the City Commission shall have the power to cause such sidewalks to be laid, and to assess the cost and expense of laying the same against the abutting property, and such assessment shall create a lien against the property so assessed. The City may issue lien certificates, bearing interest at not exceeding eight per cent, per annum, in payment of the cost of such work, dividing the amount into three annual installments, and such certificates shall be enforceable in equity against the property.

Section 124. Paving, curbing and grading streets.

The City Commission shall have power to grade and curb, or to grade, curb and pave any street, avenue or thoroughfare of said City, and when, at any time the City Commission shall decide to grade and curb, or to grade, curb and pave any street, avenue or thoroughfare, they shall pass a resolution or ordinance authorizing the same done, and thereupon shall cause the City Auditor and Clerk to advertise for bids for doing such grading and curbing, or grading, curbing and paving, and in such advertising for bids, the City Commission may request separate bids on grading, curbing and paving and enter into separate contracts therefor. And as soon as practicable after the City Commission shall have accepted any bid or bids for such grading and curbing, or grading, curbing and paving, including necessary drainage, they shall at a regular or special meeting called for such purpose, assess against the property abutting on such street, avenue or thoroughfare so to be improved, two-thirds of the cost of such improvement, one-half of the said sum to be assessed against the property on each side of such street, avenue or thoroughfare, in proportion to its frontage on said street, avenue or thoroughfare, and the other one-third of the cost of such improvement, where there are abutting owners, and the entire cost of the intersection of streets, shall be paid by the City; and where there is any public property not legally assessable for such improvements, abutting on the street, avenue or thoroughfare, the City shall pay the proportion of the cost that would be assessable

against such property were it privately owned. Provided, that where any street, avenue or thoroughfare is occupied or partly occupied by any street railway, the property of private parties or of a private corporation, the City Commission may, by ordinance, prescribe what reasonable part or portion of the cost of such improvement shall be paid by the owner or owners of such street railway, and the amount so paid shall be deducted from the amount required to be paid by the abutting property owners along such street, avenue or thoroughfare, or part thereof so occupied by such street railway track.

Section 125. Sewer, water and gas connections.

Before paving, or otherwise surfacing or resurfacing any street, avenue or other thoroughfare of the City, the City Manager, or if there be no City Manager, then the City Commission, shall determine the time within which sewer, gas, water or other connection shall be constructed, and shall give notice thereof to the person or corporation required to make the same, and if any person or corporation fails to make any such connection when so requested, no permission to make the same shall thereafter be granted within five years from the completion of any street improvement, unless for special reasons approved by the City Commission and expressed by resolution adopted unanimously at a regular meeting of the Commission at which all members are present, which resolution shall state the reasons for granting the permission. Nothing herein shall be construed to prohibit the City Commission from providing that such connection may be made by the City and the cost thereof assessed against the lots and lands benefited thereby, and if such connection be so made by the City, the cost thereof shall constitute a lien against the property so assessed.

Section 126. Certificates of indebtedness to be issued constitute a lien.

The City Commission, as soon as the assessment against the abutting property is made, shall issue certificates of indebtedness against the lots assessed for the amount of the assessment, which certificates shall contain a description of the land, the amount of the assessment, and a statement of the general nature of the improvement for which the assessment is made, which certificates shall constitute and be a prior lien to all other liens, except the lien for taxes, and for the construction and repair of sidewalks, and shall have equal dignity with them, on the real estate so assessed. The said certificates shall be payable to bearer in not exceeding ten annual installments, with interest at a rate not greater than eight per cent, per annum, payable annually; and the payment of such certificates, with interest as specified shall be guaranteed by the City of Apalachicola, and in case of nonpayment of annual interest, or of the principal at maturity, by the property owner, then the same shall be redeemed by the City at the option of the holder of such certificates; but such redemption by the City shall not discharge the lien of such assessment or certificate against the abutting property. The certificates when issued shall be turned over to the City Treasurer and Collector, who, when ordered to do so, by resolution of the City Commission, shall sell or dispose of the same in such manner as may be provided by said resolution, in

payment for such work or improvement, or for cash, as may be provided in said resolution. After such certificates are turned over to the City Treasurer and Collector, and before they are disposed of, he shall give at least two weeks' notice by publication in a newspaper of said City, or if there be no such newspaper, then by posting in three conspicuous places in said City, one of which shall be the City Hall, that such certificates have been delivered to him, and will be disposed of as directed by the City Commission unless paid by the property owner in the meanwhile.

Section 127. Enforcement of lien by suit.

That any lien created by this Act for the payment of the cost of improvements made under any of its provisions, and any certificates representing such lien, may be enforced in a suit in equity, and the costs and expense of such suit, including a reasonable attorney's fee, shall be an additional charge and lien against the property. The owner, or owners of the land involved, if they can be ascertained, shall be made defendant, but, if after diligent inquiry, such owner or owners cannot be ascertained, the proceedings shall be against the property on which the lien is claimed without naming any defendant, in which case service shall be made by notice of the institution of such suit for the enforcement of said lien by advertisement published in a newspaper of general circulation in said City once a week for four consecutive weeks, or if there be no such newspaper, then in a newspaper of general circulation in the County wherein said City is, or shall be at the time, located.

Section 128. Authority to use balance of fund derived from bond.

That the City Commissioners, be, and are, hereby authorized to use any balance of any fund derived from the sale of bonds of said City, and remaining on hand after paying for the construction or improvement for which such bond issue was authorized for any other construction or improvement which the City Commissioners may deem it advisable or expedient to make or for the purpose of paying and retiring any bonds of such issue or any interest thereon.

[ARTICLE XV.] PUBLIC UTILITIES AND FRANCHISES

Section 129. Public works.

The City Commission shall have the power, within and without its corporate limits, to construct, condemn, purchase, acquire or lease, and to maintain, conduct and operate, within and without the corporate limits, wharves, warehouses, ship channels, breakwaters, parks, drives, boulevards, causeways, and bridgeways, transportation systems, cemeteries, abattoirs, incinerators, pesthouses, schools, hospitals and libraries, waterworks, sewerage system and plants or system for the furnishing of light, heat and/or power, and to make contracts of whatever nature in connection therewith; and shall enforce such purchase, if necessary, by eminent domain proceedings; and shall have the right and power to issue bonds upon a majority vote of

the electors of said City possessing the qualifications of electors in bond elections, at any general or special election, and to any amount necessary, to carry out any of said powers or purposes.

Section 130. Lights, heat and power.

That the City Commission shall have power to provide for lighting the streets, parks and public buildings of the City; and to establish, maintain and operate plants either within or without the corporate limits of the City for lighting and heating by electricity, gas or any other method; and to supply the inhabitants of said City with artificial light, heat and power for domestic, business and other purposes, and to charge and collect reasonable rates, prices and compensation for furnishing and supplying the same.

Section 131. Waterworks and sewerage.

That the City Commission shall have power to construct, establish and maintain waterworks and sewerage systems and to bore and dig wells, construct reservoirs, lay water and sewer pipes, and do such other things as may be necessary, essential or convenient for procuring and distributing an abundant supply of good and wholesome water to the inhabitants of said City for domestic and other purposes, and to protect the property of said City and its inhabitants against fire, and to provide an adequate sewerage system, and to collect reasonable rates, prices and compensation for furnishing and supplying such water, except for fire protection which may be provided for in the tax levy, and to collect reasonable rates, prices and compensation for the use of said sewerage system and any and all connections thereto.

Section 132. Service of utilities to consumers outside of City.

The City Commission shall have power to supply water, electricity and gas for domestic and other purposes to individuals and corporations outside of said City, and shall have exclusive power and authority for the transmission and sale of electric energy in a zone of ten (10) miles wide, adjacent to and extending around and outside the corporate limits of said City, and to charge and collect reasonable rates, prices and compensation, but the City Commissioners shall charge a higher rate for such consumers than is charged for a like class of consumers within the corporate limits of said City.

Section 133. Street railways.

The City Commission shall have power to construct, maintain and operate street railways, and to purchase, own and operate buses, taxicabs and other vehicles, for public transportation, and to prescribe reasonable charges to be made for such transportation, or they may grant to persons or private corporations the franchise for constructing and operating such street railway or railways, or for operating buses, taxicabs and other vehicles, for such purpose, on any of the streets of the City, but no franchise shall be granted for a longer period than twenty years, and in granting such

franchise the City Commission shall reserve the right to prescribe reasonable charges for the transportation of passengers, and to make reasonable regulations for the control and management of such street railways, buses, taxicabs, and other vehicles.

Section 134. Granting franchises.

The City Commission shall have the right to grant franchises, as now provided by the General Laws and Statutes of the State of Florida, to persons, firms or corporations for the establishment or maintenance of any public utilities through, in, upon or under any street, avenue and public thoroughfare or parts of the City, by ordinance first passed and adopted by the City Commission, and subsequently approved by a majority of the votes cast by the qualified electors of the City who are freeholders, at a municipal election, general or special, at which such question shall have been submitted to said electors.

Section 135. Forfeitures.

If any action shall be instituted or prosecuted directly or indirectly by the grantee of any such grant, or by its stockholders or creditors, to set aside or have declared void any of the terms of any such grant, the whole of such grant may be thereupon forfeited and annulled at the option of the City Commission, to be expressed by ordinance. All such grants shall make provision for the declaration of a forfeiture by the City Commission for the violation by the grantee of any of the terms thereof.

Section 136. General provision.

Nothing in this Charter contained shall operate in any way, except as herein specifically stated to limit the City Commission in the exercise of any of its lawful powers respecting public utilities, or to prohibit the City Commission from imposing in any such grant such further restrictions and provisions as it may deem to be in the public interest, provided only that the same are not inconsistent with the provisions of this Charter or the Constitution of the State.

[ARTICLE XVI.] COMPENSATION OF OFFICERS AND EMPLOYEES

Section 137. Salaries and compensation.

The Commission shall fix by ordinance, the salary or compensation of the City Attorney, Municipal Judge, the City Manager, the heads of the departments, members of the police and fire forces and members of boards. The City Manager, or if there be no City Manager, then the City Commission, shall fix the number and compensation of all other officers and employees. The salaries or compensation so fixed shall be uniform for like service in each grade of the City service as the same shall be graded or classified by the City Manager, or if there be no City Manager, then by the City Commission. All such salaries and rates of pay with dates of employment and

discharge shall be immediately reported to the City Auditor and Clerk. All fees and moneys received or collected by officers and employees shall be immediately paid over to the City Treasurer and Collector on the date of their receipt.

Section 138. Oath of office.

Every officer of the City shall, before entering upon the duties of his office, take and subscribe to an oath of affirmation to be filed and kept in the office of the City Auditor and Clerk; which oath shall be in the form prescribed for State officers by the Constitution of the State.

Section 139. Official bonds.

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

[ARTICLE XVII.] ELECTIONS

*Now State
under State
Election Laws
via Supervisor
of Elections-*

Section 140. Elections.

The first municipal election under this Act shall be held on the first Tuesday after the first Monday in September of the year 1947, and the regular municipal elections shall be held annually thereafter on the first Tuesday after the first Monday in September. No person shall be allowed to vote at any election for the purpose of electing a Mayor or Commissioners of the City Commission for said City, who is not a qualified voter under the State law, and who has not resided in the City of Apalachicola for six months next preceding such an election, and who has not registered as a voter of said City in such manner as may be prescribed by ordinance. The City Commission shall, by ordinance, prescribe the method and manner of holding all elections in said City, and shall provide when and how special elections shall be called and held, which may not be provided for by the terms of this Act, and all elections shall be conducted substantially on the principles adopted for State elections insofar as there is no conflict with the terms of this Act; that the City Commission may by ordinance prescribe the method, manner and conduct of all elections of said City not in conflict with this Act.

Section 141. Registration of voters.

The City Auditor and Clerk shall be the registration officer for the City and shall register all persons applying to him whose names are not already borne upon the registration books and who are qualified as electors under the provisions of this Charter. For this purpose the registration book shall be opened at his office twenty

obsolete

AN ORDINANCE AMENDING THE CHARTER OF THE
CITY OF APALACHICOLA BY REPEALING SECTION
134, CHAPTER 24374, LAWS OF FLORIDA, ACTS
OF 1947, RELATING TO THE GRANTING OF
FRANCHISES.

WHEREAS, Chapter 24374, Laws of Florida, Acts of 1947, is
a special act pertaining solely to the powers and jurisdiction
of the City of Apalachicola; and

WHEREAS, by virtue of Section 166.021(5), Section 134 of
Chapter 24374, Laws of Florida, Acts of 1947, became an ordinance
of the City of Apalachicola, subject to repeal as other ordinances;
and

WHEREAS, the constitutional provisions and general laws
applicable to the City of Apalachicola now makes adequate provisions
for the procedure to be followed in the granting of franchises;

NOW THEREFORE, BE IT ENACTED BY THE PEOPLE OF THE CITY OF
APALACHICOLA, FLORIDA, that

SECTION 1. Section 134, Laws of Florida, Acts of 1947
relating to the granting of franchises, which, by Section 166021,
Florida Statutes, was made an ordinance of the City of Apalachicola,
be and it is hereby repealed.

SECTION 2. The granting of franchises by the City of
Apalachicola shall be governed by the Constitution and general
laws of the State of Florida.

SECTION 3. All ordinances and partial ordinances in conflict
herewith are hereby repealed.

SECTION 4. This Ordinance shall take effect immediately.

Introduced and read by title on October 12, 1983.

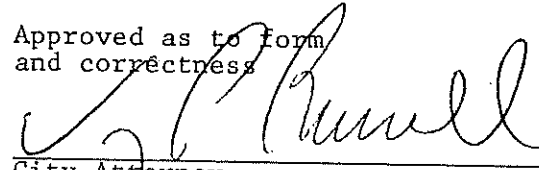
Read by title, and voted upon and adopted October __, 1983.

CITY OF APALACHICOLA


Mayor


Clerk

Approved as to form
and correctness


City Attorney

days before the holding of any municipal election, and shall remain open for registration for ten days thereafter between the hours of 9 o'clock a.m. and 12 m. and from 2 o'clock p.m. to 5 p.m. each day. Each person applying to be registered shall take the following oath; which will be administered by the registration officer or his duly appointed deputy: "I do solemnly swear that I am a bona fide resident of the City of Apalachicola and possess all of the qualifications of an elector of said City." Any person taking such oath who shall swear falsely shall be guilty of perjury. The name of each person so registered shall be entered in a book prepared for that purpose, which book, shall show, under appropriate heading, the age, color, occupation and exact place of residence of each person so registered. The City Commission may by ordinance provide for a revision of the registration list of voters when in their opinion a revision is necessary.

Editor's note—The registration of voters is now handled by the county. See ch. 73-155 of the General Laws of Florida.

Section 142. Elections, how arranged for.

The City Commission shall make all necessary arrangements for holding all municipal elections, and shall declare the result thereof. Inspectors and clerks of elections shall be appointed by the City Commission, except that if the Commission shall fail to appoint them at least two days before the date of any election, the Mayor may appoint them.

Section 143. Canvass of returns.

The polls shall open at eight o'clock a.m. and shall close at seven o'clock p.m. by whatever time is officially used by the City. The result of the voting, when ascertained, shall be certified by return in duplicate, signed by the clerk and a majority of the inspectors of election; one copy being delivered by such clerk and inspectors to the Mayor and the other to the City Auditor and Clerk, both of whom shall transmit such returns to the City Commission at a meeting to be held at 12 o'clock noon on the day following the election. At such meeting the City Commission shall canvass the returns and the result as shown by such returns shall be by the Commission declared as the result of the election. The City Auditor and Clerk shall, not later than noon of the second day after the election, furnish a certificate of election to each person shown to have been elected.

[ARTICLE XVIII.] THE RECALL

Section 144. Recall petition. ^{FS} 100.361

Any or all members of the City Commission may be removed from office by the electors by the following procedure: A petition for the recall of the Mayor-Commissioner or Commissioners designated, signed by at least one hundred of the electors of the City, and containing a statement in no more than two hundred words of the grounds of the recall, shall be filed with the City Auditor and Clerk, who shall forthwith notify the

Mayor-Commissioner or Commissioners sought to be recalled, and he or they, within five days after such notice, may file with such City Auditor and Clerk a defensive statement in not exceeding two hundred words. The City Auditor and Clerk shall at once upon the expiration of said five days cause sufficient number of typewritten copies of such petition, without the signatures, to be made, and to each of them he shall attach a printed or typewritten copy of such defensive statement, if one is furnished him within the time stated. He shall cause copies of such petition to be placed on file in his office and provide facilities there for signing the same, and he shall immediately cause notice to be published in some newspaper of general circulation in the City, or if there is no such newspaper such notice shall be posted in three conspicuous places in said City, one of which shall be the City Hall, for the placing of such petitions. Such copies of such petition shall remain on file in the place designated for the period of thirty days, during which any of them may be signed by any elector of the City in person, but not by agent or attorney. Each signer of any such copy shall sign his name in ink or indelible pencil and shall place thereafter his residence by street number, if a number has been assigned to his residence.

Section 145. Notice.

At the expiration of said period of thirty days the City Auditor and Clerk shall assemble all of said copies in the office as one instrument, and shall examine the same and ascertain and certify thereon whether the signatures thereto amount to at least twenty per cent of the registered voters of the City. If such signatures do amount to such per cent he shall at once serve notice of that fact upon the Mayor-Commissioner or Commissioners designated in the petition, and also deliver to the City Commission a copy of the original petition with his certificate as to the percentage of registered voters who signed the same and a certificate as to the date of his last mentioned notice to the Mayor-Commissioner or Commissioners, or any of them, designated in the petition.

Section 146. Recall election.

If the Mayor-Commissioner or Commissioners, or any of them, designated in the petition, file with the City Auditor and Clerk within five days after the last mentioned notice his or their written resignation, the said City Auditor and Clerk shall at once notify the City Commission of that fact and such resignation shall be irrevocable, and the City Commission shall proceed to fill the vacancy. In the absence of any such resignation the City Commission shall forthwith order and fix a day for holding a recall election for the removal of those not resigning. Any such election shall be held not less than thirty days nor more than sixty days after the expiration of the period of five days last mentioned, and at the same time as any other general or special election held within such period; but if no such election be held within such period the City Commission shall call a special recall election to be held within the period aforesaid.

Section 147. Ballots.

The ballots at such recall election shall conform to the following requirements: With respect to each person whose removal is sought, the question shall be submitted:

"Shall (name of person) be removed from the office of Mayor of the City Commission by recall?", or "Shall (name of person) be removed from the office of Commissioner, Group (name of group) of the City Commission by recall?", as the case may be. Immediately following each such question there shall be printed on the ballot the two propositions in the order here set forth:

"For the recall of (name of person)."

"Against the recall of (name of person)."

Immediately to the left of each of the propositions shall be placed a square on which the electors, by making a crossmark (X), may vote either of such propositions.

Section 148. Filling of vacancies.

In any such election, if a majority of the votes cast on the question of removal of any Mayor or Commissioner are affirmative, the person whose removal is sought shall thereupon be deemed removed from office upon the announcement of the official canvass of that election and the vacancy caused by such recall shall be filled by the remainder of the City Commission according to the provisions of this Charter. If, however, an election is held for the recall of more than one of the Commission, candidates to succeed them for the unexpired terms shall be voted upon at the same election, by groups in the instance of Commissioners, and shall be nominated without primary elections, by petition signed by fifty electors of said City, the petition shall contain the name of each person whose name is presented for a place on the ballot and that such person is a candidate for the office of Mayor or Commissioner of the City Commission for the City of Apalachicola, and in the instance of Commissioners the Commissioner group shall be stated, and each elector signing the petition shall add to his signature his place of residence, with street and number if a number has been assigned to his place of residence, and the date of signing, and may subscribe to one nomination for each of the places to be filled and no more, and all signatures shall be made with ink or indelible pencil. To such petition shall be attached an affidavit of the circulation thereof, stating the number of signers thereto; that each person signed in his presence on the date mentioned, and that the signature is that of the person whose name it purports to be. Such petition shall be filed with the City Auditor and Clerk not less than fifteen days previous to the day of such election. Any person whose name has been submitted for candidacy by any such petition shall file his acceptance of such candidacy with the City Auditor and Clerk not later than ten days previous to such election; otherwise his name shall not appear on the ballot. But no such nominating petition shall be signed or circulated until after the time has expired for signing the copies of the petition for the recall, and any signatures thereon antedating such time shall not be counted.

Section 149. Counting the vote.

Recall candidates for the office of Commissioner shall be nominated in the same groups as is hereinbefore provided for Commissioners in regular elections. Candidates for Mayor at such recall elections receiving the largest number of votes shall be elected

Mayor, and in the instance of Commissioners, the candidate in said group receiving the largest number of votes shall be elected. Cases of ties, and all other matters not herein specially provided for, shall be determined by the rules governing elections generally.

Section 150. Effect of resignation.

No proceedings for the recall of all of the members of the City Commission at the same election shall be defeated in whole or in part by the resignation of any or all of them, but upon the resignation of any of them, the City Commission shall have power to fill the vacancy until a successor is elected, and the proceedings for the recall and election of successors shall continue and have the same effect as though there had been no resignation.

Section 151. Miscellaneous provisions.

Except as herein otherwise provided, no petition to recall a Mayor or any Commissioner shall be filed within six months after he takes office. The City Auditor and Clerk shall preserve in his office all papers comprising or connected with a petition for a recall for the period of one year after the same were filed. The method of removal herein provided is in addition to such other methods as are or may be provided by general law.

Section 152. Offenses relating to petitions.

No person shall falsely impersonate another, or purposely write his name or residence falsely, in the signing of any petition for recall, or forge any name thereto, or sign any such paper with knowledge that he is not a qualified elector of the City. No person shall sign or knowingly permit to be signed, any petition for recall at any place other than the office of the City Auditor and Clerk. Any person violating any of the provisions of this section shall be deemed guilty of a misdemeanor and shall, upon conviction, be fined in a sum not to exceed one hundred dollars and the cost of prosecution, and may be imprisoned for not exceeding three months, or both, at the discretion of the Court. The foregoing provisions shall not be held to be exclusive of, but in addition to, all Laws of the State prescribing penalties for the same offenses or for other offenses relating to the same matter.

[ARTICLE XIX.] GENERAL PROVISIONS

Section 153. Investigations.

The City Commission, or any committee thereof, the City Manager, if one be appointed, or any advisory board appointed by the City Commission for such purpose, shall have power at any time to cause the affairs of any department or the conduct of any officer or employee to be investigated; and for such purpose shall have power to compel the attendance of witnesses and the production of books, papers, and other

evidence; and for that purpose may issue subpoenas or attachments which shall be signed by the president or chairman of the body, or by the officer making the investigation, and shall be served by any officer authorized by law to serve such process. The authority making such investigation shall have power to cause the testimony to be given under oath, such oath to be administered by some officer having authority under the Laws of the State to administer oaths; and shall also have power to punish as for contempt any person refusing to testify to any fact within his knowledge, or produce any book or papers under his control relating to the matter under investigation.

Section 154. Dedication of streets.

No street or alley hereinafter dedicated to public use by the owner of any land within the City shall be deemed a public street or alley, under the care or control of the City, unless the dedication be accepted and confirmed by ordinance passed for such purpose.

Section 155. Labor required of prisoners.

All persons imprisoned after conviction in the Municipal Court shall be required to work for the City at such labor as their health and strength will permit, within the limits of the City, not exceeding eight hours each day and for not exceeding sixty consecutive days for one offense.

Editor's note—The municipal court of the city has been abolished. For further details, see the editor's note under article VI of this charter.

Section 156. Police power.

The City Commission shall have power to pass all such ordinances and laws, not inconsistent with the Constitution and Laws of the United States and of this State, as may be expedient and necessary for the preservation of the public peace and order, for the suppression of riots and disorderly assemblies, and for the good order and government of the City, and to impose such pains, penalties and forfeitures as may be needed to carry the same into effect; provided, that for no offense made punishable by the laws and ordinances of said City shall fine of more than five hundred dollars, or imprisonment for a period of time longer than sixty days, be imposed.

Section 157. General laws to apply.

All General Laws of the State applicable to municipal corporations, now or which may hereafter be enacted, and which are not in conflict with the provisions of this Charter or with the ordinances and resolutions hereafter enacted by the City Commission shall be applicable to this City; provided, however, that nothing contained in this Charter shall be construed as limiting the power of the City Commission to enact any ordinance or resolution not in conflict with the Constitution of the State or with the express provisions of this Charter.

Section 158. General law governing City Councils extended to City Commissioners.

That any right or authority given or permitted by the Constitution and Laws of the State of Florida to City Councils not inconsistent with the provisions of this Act shall be given, permitted and extended to the City Commissioners of the City of Apalachicola.

Section 159. Saving clause.

If any section or part of section of this Charter proves to be invalid or unconstitutional, the same shall not be held to invalidate or impair the validity, force, or effect of any other section or part of a section of this Charter, unless it clearly appears that such other section or part of a section is wholly or necessarily dependent for its operation upon the section or part of a section so held to be unconstitutional or invalid.

Section 160. Repealing clause.

All laws and parts of laws in conflict herewith be and the same are hereby repealed.

Section 161. [Effective date.]

This Act shall take effect immediately upon its becoming a law.

Became a law without the Governor's approval.

Filed in Office Secretary of State June 16, 1947.

[The next page is 103]