

**CHAPTER 5
HEALTH AND SANITATION**

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CHAPTER 5 HEALTH AND SANITATION

ARTICLE I. MISCELLANEOUS

Sec. 5-1. Animal Control

Within the corporate limits of the City of Waldo, Alachua County Ordinance 93-34, as amended, shall be in force and effect and shall be enforced by Alachua County Animal Control Officers and by any persons designated by the City of Waldo.

[History: Ord. 94-9]

Sections 5-2 through 5-9 reserved.

ARTICLE II. ABANDONED AND DANGEROUS VEHICLES

Sec. 5-10. Definitions.

The following definitions shall apply in the interpretation and enforcement of this ordinance:

Abandoned vehicle shall mean any vehicle which appears to be incapable of safe operation under its own power upon a public street and/or any vehicle not having a current motor vehicle registration tag properly attached. However, this shall not apply to motor vehicles located on private property owned or leased by a new or used automobile dealer possessing a current, valid City of Waldo occupational license as such; nor shall this definition apply to any ancient, antique or collector vehicle that is registered with the state, pursuant to F.S. § 320.086 and has the appropriate license plate attached.

Dangerous vehicle shall mean a vehicle which represents or poses a danger to the public or the vehicle itself by reason of its physical location or condition (e.g., obstructing vehicular or pedestrian traffic; containing broken glass; leaking flammable liquids, being up on blocks).

Property shall mean any real property within the City that is not a street, highway or right-of-way.

Street, highway or right-of-way shall mean the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular traffic.

Vehicle shall mean a machine propelled by power other than human power designed to travel along the ground by use of wheels, treads, runners or slides and transport persons or property or

pull machinery and shall include, without limitation, automobile, truck, trailer, motorcycle, and tractor.

[History: Ord. 2005-4B]

Sec. 5-11. Abandoned, Dangerous Vehicles.

- A. It shall be unlawful for the owner of any abandoned vehicle to allow the vehicle to remain on any property or street, highway or right-of-way within the city for longer than 72 hours.
- B. It shall be unlawful for the owner of any dangerous vehicle to allow the vehicle to remain on any property, street, highway or right-of-way within the city. The vehicle shall be immediately repaired or removed by either the owner or the city so as to eliminate the danger, and, if necessary, the vehicle may be impounded without prior notice of such impoundment and costs may be imposed.
- C. Subsections A and B of this section shall not apply with regard to a vehicle in an enclosed building. Subsection A of this section shall not apply with regard to:
 - 1. A vehicle on the premises of a business enterprise operated in a lawful place and in a lawful manner when necessary to the operation of the business;
 - 2. A vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the city.

[History: Ord. 2005-4B]

Sec. 5-12. Impoundment.

- A. *City manager's authority.* The city manager, or his/her designated representatives, are hereby authorized to remove or have removed and impounded any vehicle which reasonably appears to be in violation of this division. The owner of the vehicle shall be liable for towing, storage and notice costs incurred pursuant to proper impoundment.
- B. *Notice.*
 - 1. In those cases where a vehicle is reasonably determined to be in violation of subsection 5-11 A, the enforcing official shall cause to be placed on the vehicle a notice declaring that the vehicle is in violation of such sections, stating with reasonable particularity the factors or reasons which caused such determination. The notice shall indicate the date upon which it is issued and further indicate that the vehicle will be impounded and costs imposed unless removed or repaired within ten days after the date of issuance of the notice, so as to no longer be in

violation. The notice shall also advise that after proper impoundment the vehicle will be released to the owner only upon payment of reasonable towing, storage and notice costs. The notice shall further state that if the owner of the vehicle wishes to contest the validity of the proposed impoundment and imposition of costs, the owner must, within ten days after the issuance of the notice, deliver to the city manager a written request for a hearing on such matters. The enforcing official shall also cause a copy of the notice to be sent by registered mail, return receipt requested, to the address of the vehicle's owner as last shown by the records of the division of motor vehicles of the state, or, if the vehicle has an out of state license plate, by the records of the division of motor vehicles of that state. If the owner is present at the time of the issuance of the notice, the notice may be hand delivered in lieu of posting and mailing.

2. In those cases where a vehicle is reasonably determined to be in violation of subsection 5-11 B, the enforcing official shall cause to be placed on the vehicle a notice declaring that the vehicle is in violation of subsection 5-11 B, stating with reasonable particularity the factors or reasons which cause such determination. The notice shall indicate the date upon which it was issued and further state that the vehicle will be immediately impounded and costs imposed unless repaired or removed so as to no longer constitute such danger. The notice shall also advise that after proper impoundment the vehicle may be released to the owner after payment of reasonable towing, storage and notice costs. The notice shall further state that if the owner of a vehicle impounded pursuant to subsection 5-11 B wishes to contest the validity of the impoundment and the imposition of costs, the owner must, within ten days after the issuance of the notice, deliver to the city manager a written request for a hearing on such matters. The enforcing official shall also cause a copy of the notice to be sent by registered mail, return receipt requested, to the address of the vehicle's owner as last shown by the records of the division of motor vehicles of the state, or, if the vehicle has an out of state license plate, by the records of the division of motor vehicles of that state. If the owner is present at the time of the issuance of the notice, the notice may be hand delivered in lieu of posting and mailing.

- C. *Hearing.* If a written request for a hearing to contest the validity of the determination to impound and impose costs is delivered to the city manager in accordance with the time limitations imposed by this article, the matter shall be considered at the next meeting of the board of adjustment occurring not less than three days after the filing of the request. The owner or his/her representative as well as the city manager or his/her designated representatives shall be notified of the time and place of the hearing. No appeal fees or other notices shall be required.
- D. *Release of impounded vehicles.* Vehicles impounded pursuant to subsection 5-11 A shall only be released to the owner or his/her representative after payment of the towing, storage and notice costs. Vehicles impounded pursuant to subsection 5-11 B may be

released upon payment of towing, storage and notice costs, or if a request for a hearing has been timely delivered, the vehicle shall be released to the owner upon confirmation that a timely request has been made. If a timely request for hearing has been made and the vehicle is therefor released prior to payment of costs, the release shall not be deemed a waiver of the city's right to institute either civil or criminal actions against the owner of the vehicle.

E. *Disposition of unreleased vehicles.*

1. *Junk vehicle.* If any vehicle is not removed and caused to be in compliance with the terms of this division within the time allowed and thereafter the vehicle is impounded and not released in accordance with this division, the vehicle may be disposed of as junk if the vehicle is not reasonably repairable, and any sums received from the sale of the junk shall be deposited in the general fund of the city to assist in defraying expenses for the enforcement of this division.
2. *Repairable vehicle.* If the vehicle so impounded may be reasonably repaired so that title thereto may be transferred by appropriate authority, the same may be done through the procedure authorized under the provisions of F.S. Ch. 85, or under such other procedure as may be authorized by law.
3. *Disbursement of funds.* From the funds received from any such sale, there shall be deposited in the general fund of the city to assist in defraying expenses of the enforcement of this division all necessary expenses incurred in connection with the impounding and sale of the vehicle, and the balance thereof may be claimed by the rightful owner within 30 days from the date of the sale.

[History: Ord. 2005-4B]

Sec. 5-13. Restoration of Vehicles.

- A. Any citizen of Waldo, Florida wishing to restore a motor vehicle on their property can avoid the provisions of this Article with regard to abandoned or inoperable motor vehicles by displaying a valid, current Vehicle Restoration Permit on a portion at the motor vehicle being restored that is readily observable by passersby or the Waldo Code Enforcement Officer.
- B. A Vehicle Restoration Permit may be obtained by application at City Hall during normal business hours. To obtain a Vehicle Restoration Permit the applicant must produce evidence of title in the applicant's name bearing the Vehicle Identification Number ("VIN") of the vehicle to be restored.
- C. The cost of the Vehicle Restoration Permit shall be \$50.00 for the first six-month permit and \$75.00 for the second successive six-month permit. No vehicle shall be permitted

for restoration for longer than two consecutive six month periods. After the expiration of the restoration permit period(s) the motor vehicle will be conclusively presumed to be inoperable if not then currently registered for operation pursuant to the terms of this Article.

- D. Application for a Vehicle Restoration Permit is deemed to be consent by the applicant/permit holder for the Waldo Code Enforcement Officer to enter into any lands where permitted vehicles may be found to check the VIN number of the permit against the VIN number of the vehicle the permit is displayed upon. Any vehicle with a concealed VIN number bearing a Vehicle Restoration Permit shall be presumed to be an abandoned or inoperable motor vehicle pursuant to this Article. Applicants for a Vehicle Restoration Permit are deemed to be aware that Florida Statute 319.33 (1)(d) provides that it is a third degree felony to possess a motor vehicle with the knowledge that the VIN has been covered, destroyed, altered, removed, or defaced.
- E. The City Manager or the City Manger's designee shall cause to be prepared an application for a Vehicle Restoration Permit that requires applicant's name, address where the motor vehicle will be restored, year, make, model, and color of the motor vehicle, VIN of the motor vehicle, date permit is issued, date permit shall expire, and whether the application is for a first or second term of six months.
- F. The City Manager or the City Manger's designee shall cause to be prepared a Vehicle Restoration Permit for display on the motor vehicle being restored. The permit shall conspicuously disclose the name, address where the motor vehicle will be restored, year, make, model, and color of the motor vehicle, VIN of the motor vehicle, date permit is issued, date permit shall expire, and whether the permit is for a first or second term of six months.

[History: Ord. 2002-05A]

Sections 5-14 through 5-19 reserved.

ARTICLE III. TRASH AND LITTER

Sec. 5-20. Generally.

It is unlawful to dump or otherwise improperly place upon any street, road, right- of- way, or vacant lot within the City of Waldo, Florida, any litter, trash, garbage, debris, abandoned appliance, abandoned vehicle or other such material other than as authorized by the City for collection of trash.

Sec. 5-21. Disposal.

- A. Any person desiring to dispose of litter, trash, garbage, debris, abandoned appliance, abandoned vehicle or other such material, other than that which is authorized for regular trash pickup, shall contact the Waldo City Manager or designee and make arrangements and pay such fees as shall be required. Such arrangements and the paying of such fees shall be made before any such litter or trash is placed upon the right- of- way.
- B. The City shall process and dispose of litter or trash as has been arranged and fees paid as shall be determined by the City. The City shall only accept arrangement for the type, size or quantity of litter or trash as may be properly disposed of by the City.

Sec. 5-22. Enforcement.

- A. Any litter, trash, garbage, debris, abandoned appliance, abandoned vehicle or other such material improperly placed may be removed by the City. In such case, the identity of the person or persons placing the trash or any person who owned some or all of the trash before it was improperly placed, shall be liable for the costs of collection and removal of the trash plus an administrative penalty for such improper placement. Such fee shall include a basic administrative charge for investigation of the site, estimate of the means necessary to collect and dispose of the material, and for other administrative costs associated with the matter of \$50.00, plus a disposal fee of \$35.00 per cubic yard. In addition, the City may place an administrative penalty fee for extraordinary expenses involved in the investigation, collection, removal or disposal of the material. These fees may be altered or amended from time to time by the Waldo City Council by resolution.
- B. Absent direct evidence of the identity of the person or persons responsible for the improper placement of such trash, it shall be presumed that the person or persons residing or operating a business directly adjacent to the location of the trash, placed the trash at the location where found. This presumption may be refuted by the sworn affidavit of a person stating his or her personal knowledge of how the trash came to be located at the improper site.
- C. Any person or persons improperly placing trash as defined herein shall be responsible for payment of all costs of associated with the discovery, inspection, collection, removal and

disposal of such trash. Such person or persons shall be billed by the City for such expenses and may have such billing placed upon any account billed by the City of Waldo to any such person. If two or more persons shall be responsible for the improper placement of the trash or for payment of the expenses associated with the removal, then the City may bill any one or any number or all of the persons for the entire amount of such billing. Apportionment and collection of contribution among those responsible for payment shall be a matter between such jointly responsible persons. The City shall have no duty to agree to collect only a portion of the amount due from any individual.

- D. The improper placement of trash as described in this Article shall be considered a public nuisance and a violation of the Health and Safety codes of the City of Waldo. Where it can be shown or where there is a presumption that the trash was improperly placed from an adjoining property, such placement of trash shall be considered a code violation and subject the offender(s) and their property to the jurisdiction of the Waldo Code Enforcement Board. Failure to promptly pay any costs or fees associated with investigation, collection, removal or disposal of improperly placed trash shall be a violation of the Health and Safety Code of the City of Waldo and shall subject the offender(s) and their property to the jurisdiction of the Waldo Code Enforcement Board. The Waldo Code Enforcement Board is hereby specifically authorized to hear cases of alleged improper disposition of trash, as defined, and failure to pay associated costs and fees. Upon a finding of violation, the Waldo Code Enforcement Board is authorized to impose additional fines for such violations and to further enforce its orders as authorized by law, including the place of liens for payments of costs, fees, fines and costs of collection, including a reasonable attorney's fee.
- E. Any person who violates any provision of this Article shall be guilty of a misdemeanor of the second degree as defined in Florida Statute 775.081. Any law enforcement officer may arrest or issue a citation or summons for violation of this ordinance. This penalty shall be supplemental and in addition to any other means of enforcement of this ordinance. Each day on which the offense occurs or is continued shall constitute a separate offense.

[History: Ord. 97-7]

Sections 5-23 through 5-29 reserved.

ARTICLE IV. SOLID WASTE COLLECTION

Sec. 5-30. Provision of Service by Franchise

- A. All residential and nonresidential uses within the City of Waldo shall be provided with solid waste collection services pursuant to a franchise granted to a private solid waste collection provider as authorized by Section 180.14, Florida Statutes.
- B. The City may collect a franchise fee as negotiated with the private provider and as set forth in the franchise agreement.
- C. The City shall enter into the franchise agreement only after a duly noticed public hearing before the City Council. The public hearing shall specifically address the service to be provided, the franchise fee to be paid, and the fees for service to be charged to the residents and businesses within the City.

[History: Ord. 2011-01]

Sec. 5-31. Fees for Service; Collection

- A. The fees to be paid by residential and nonresidential uses within the City of Waldo for solid waste collection services shall be set forth in a resolution of the City Council.
- B. Where the City has the responsibility for collecting such fees, the City shall have the authority to use all available legal means to collect such fees, including by suit in a court of competent jurisdiction.

[History: Ord. 2011-01]

Sections 5-32 to Sec. 5-39 reserved.

ARTICLE V. JUNK

Sec. 5-40. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

Junk means any litter, debris, waste materials of any kind, dead or decaying vegetation or vegetative refuse, dead animals, used or unserviceable automobile and machinery parts, used and nonfunctional furniture and appliances, dilapidated mobile homes in an uninhabitable condition, and used and nonfunctional tools, equipment and implements, but shall not include compost piles for normal, personal, noncommercial use.

Unserviceable vehicle means any vehicle required to be licensed by the state if used on public streets which remains for a period of 30 days in such condition that it cannot be started or moved under its own power, or in its normal and usual manner, without repair or the addition of parts, and/or which is unlicensed for a period of 30 days, but does not include any licensed automobile which is more than 20 years old which is undergoing active repair or restoration for display, use or sale as an antique.

[History: Ord. 2009-03]

Sec. 5-41. Legislative findings.

The City Council finds that the accumulation of junk and/or the storage of unserviceable vehicles on privately owned lands, except in lawfully established and maintained junkyards, garbage or waste disposal sites, or sanitary landfills, creates health hazards and attracts nuisances and impairs the economic welfare of adjoining properties. Such accumulation of junk and/or storage of unserviceable vehicles in violation of this article is prohibited and declared to be a public nuisance.

Sec. 5-42. Violations.

- A. It shall be unlawful for the owner of any land within the limits of the City of Waldo to cause or have on such land any accumulation of junk, except for:
1. Junk stored in enclosed litter receptacles or completely enclosed buildings.
 2. Junk which will not fit into standard sized litter receptacles and which is set out for no more than 96 hours for pickup and removal.
 3. Recyclable material stored in receptacles provided for recycling of such material.

4. Junk stored in a lawfully established and maintained junkyard, garbage, or waste disposal site, or sanitary landfill.
 5. Accumulations of vegetative wastes.
- B. It shall be unlawful for the owner of any land to cause, permit or have stored on his land any unserviceable vehicle, except for unserviceable vehicles stored on the premises of a lawfully established and maintained junkyard, vehicle repair business, garbage or waste disposal site, or sanitary landfill, and except for vehicles stored within a completely enclosed building.
- C. It shall be unlawful for any owner, agent, contractor or other person in charge of a construction, demolition or development site to:
1. Cause or permit the accumulation of junk or litter on such site, except in enclosed litter receptacles;
 2. Fail to furnish on-site litter receptacles; or
 3. Leave unused construction materials on the site for more than seven days after the completion of the development, demolition or construction, or the expiration of the permit.
- D. It shall be unlawful for the owner of any land within the limits of the City of Waldo to place junk on any adjacent city right of way, unless such junk is placed in authorized trash containers for collection by weekly waste management services.

[History: Ord. 2009-03]

Sec. 5-43. Notice of prohibited conditions.

- A. If the code enforcement officer finds and determines at any time that a public nuisance as described in section 5-42 exists, the officer shall notify the record owner of the property in writing and demand that the owner cause the condition to be remedied in accordance with the provisions of this article.
- B. The notice shall provide that if the demand to remedy the condition is not complied with within 30 days from the date of the notice, the land as described in the notice may be cleared by the City and the cost thereof will constitute a lien against the land so benefitted.
- C. The notice shall be given by registered or certified mail, addressed to the owner or owners of the property described, as their name and address are shown upon the latest ad valorem tax records of the county property appraiser, and shall be deemed complete and

sufficient when so addressed and deposited in the United States mail with proper postage prepaid.

- D. In the event that the notice is returned by postal authorities, the code enforcement officer shall cause a copy of the notice to be served by the sheriff upon the occupant of the property or upon any agent of the owner thereof. In the event that personal service upon the occupant of the property or upon any agent of the owner thereof cannot be performed after reasonable search by the sheriff, the notice shall be accomplished by physically posting the notice upon the property. The notice, when posted on the property, shall be not less than eight inches by ten inches and shall be sufficiently weatherproofed to withstand normal exposure to the elements.
- E. The notice shall be in substantially the following form:

NOTICE

Name of owner:

Date:

Address of owner:

Our records indicate that you are the owner(s) of the following described property within the City of Waldo, Florida:

[PROPERTY DESCRIPTION]

Upon inspection of your property on [date] the following condition was found which causes the property to be in violation of City of Waldo Code, Chapter 5, Section 5-42. The violation is described as follows:

[DESCRIPTION OF VIOLATION]

You are hereby notified that unless the condition described above is remedied so that it no longer violates City of Waldo Code, Section 5-42, within 30 days from the date of this notice, the City of Waldo will proceed to remedy the unlawful conditions and the cost of the work and other incidental expenses will be billed to the owner of the property. These costs will be imposed as a lien on the property if not paid within 30 days after receipt of the bill.

CITY OF WALDO, FLORIDA

by: _____
[Code Enforcement Officer]

[History: Ord. 2009-03]

Sec. 5-44. Appeals.

The owner may appeal the notice by filing a written request for hearing within 30 days after mailing, serving, or posting of the notice, as set forth in section 5-43. The written request for hearing shall be filed with the City Manager. The City Council shall hear the appeal at its next regularly scheduled meeting, and the owner shall be notified in writing of the time and place of the hearing. At the hearing the City and the property owner may introduce such evidence as deemed necessary.

[History: Ord. 2009-03]

Sec. 5-45. Cleaning of property by City; assessment of cost; notice of lien.

- A. After 30 days from mailing, serving, or posting of the notice, whichever occurs last, if no request has been received and the condition described in the notice has not been remedied, the code enforcement officer may cause the condition to be remedied by the City at the expense of the property owner. The cleaning or clearing of the property may be performed, at the option of the City, either by the City or by service contract for the City. Any articles of property removed through the cleaning or clearing of any lot, tract, or parcel of land by the City may be destroyed or sold for salvage and the salvage value, if any, of such article or articles shall be retained by the City Council to be applied against the cost of removal and destruction thereof. If a hearing has been held and concluded adversely to the property owner, the code enforcement officer may cause the condition to be remedied by the City at the expense of the property owner.
- B. After causing the condition to be remedied, the code enforcement officer shall certify to the City Manager the expense incurred in remedying the condition, which shall include any incidental expenses, whereupon such expenses shall become payable within 30 days, after which a lien for unpaid expenses will be made upon the property, which lien shall be in favor of the City of Waldo and shall be payable with interest at the legal rate from the time of such certification until paid. Provided, however, that no such lien shall become effective until 15 days after notice thereof shall be published in a newspaper of general circulation, which notice shall state the name and address of the last known owner as shown on the county tax record, a description of the property, the amount of the assessment, and the date of service on the property. The cost of such publication shall be added to the amount of such assessment and lien.
- C. Notice of such lien shall be filed in the office of the clerk of the circuit court and recorded among the public records of Alachua County, Florida. Such liens shall be prior to all other liens except taxes and shall be of equal dignity with special assessments made for other public purposes. The owner of the assessed property shall be personally liable for the amount of the assessment and the cost of collection provided for in this article.
- D. The City may bring an action to foreclose the lien.

[History: Ord. 2009-03]

Sections 5-46 to Sec. 5-49 reserved.

ARTICLE VI. NOISE

Sec. 5-50. Definitions.

For the purpose of this Article the following words, terms, and phrases shall be defined as follows:

Daytime shall mean the hours between 7:00 a.m. and 9:00 p.m. of the same day.

Emergency work shall mean any work performed for the purpose of preventing or alleviating physical trauma or property damage threatened or caused by an existing or imminent peril.

Enforcement agent means an officer of the City of Waldo Police Department or the City of Waldo Code Enforcement Officer.

Nighttime means the hours between 9:00 p.m. of one day and 7:00 a.m. of the next day.

Noise means any sound which is unwanted or which causes or tends to cause an adverse psychological or physiological effect on humans.

Person means any individual, association, partnership, corporation, governmental agency, business trust, estate, trust, copartnership, joint venture or any entity public or private in nature.

Plainly audible means any sound that can be heard by a person using his or her normal hearing faculties. Any person who hears a sound that is plainly audible, as defined herein, shall be entitled to measure the sound according to the following standards:

- (1) The primary means of detection shall be by means of the person's ordinary auditory senses, so long as the person's hearing is not enhanced by any mechanical device, such as a hearing aid.
- (2) The person must have a direct line of sight and hearing to the source producing the sound so that he or she can readily identify the source of the sound and the distance involved.
- (3) In the case of sound recordings, the person need not determine the particular words or phrases being produced or the name of any song or artist producing the sound. The detection of a rhythmic bass reverberating type sound is sufficient to constitute a plainly audible sound.

Real property line means an imaginary line along the surface, and its vertical plane extension, which separates the real property owned, rented or leased by one person from that owned, rented or leased by another person, excluding intra-building real property divisions.

Reasonable time means such length of time as may fairly, properly, and reasonably be allowed or required to eliminate or abate a noise found to be in violation of this chapter, after a warning has been issued. The duration of time shall be dependent on the source of the noise and what action can be taken to eliminate the noise causing said violation.

Sound means an oscillation in pressure, stress, particle displacement, particle velocity or other physical parameter, in a medium with internal forces. The description of sound may include any characteristic of such sound, including duration, intensity and frequency.

Land use district: Any of the several designated categories in the City of Waldo Comprehensive Plan and Land Development Code which can be broadly divided into four distinct uses, including residential, commercial or business, industrial or manufacturing, and agricultural.

[History: Ord. 2011-02]

Sec. 5-51. Noise prohibitions.

- A. It shall be unlawful, except as expressly permitted herein, for any person to make, cause, or allow the making of any noise or sound within the incorporated areas of the City of Waldo, Florida, which exceeds the noise levels set forth in this Article.
- B. The following specific acts, and the causing thereof, are declared to be a violation of this Article:
 - 1. *Horns and signal devices.* The sounding of any horn or audible signaling device of a motor vehicle, boat, engine, machine, or stationary boiler, within the jurisdiction of the City of Waldo, continuously or intermittently for a period in excess of 60 seconds, except as a danger or emergency warning.
 - 2. *Radios, televisions, electronic audio equipment, musical instruments, and similar devices.*
 - a. The use, operation or playing of any radio, television, stereo set, sound amplifier, musical instrument or similar device which produces or reproduces sound in a manner as to be plainly audible at a distance of 100 feet or more away from the real property line of the source of the sound, to any person in a commercial, industrial, or residential area, or public space.
 - b. The operation or playing of any radio, musical instrument, or similar device which produces sound on the public right-of-way in such a manner as to be plainly audible to any person at a distance of 100 feet from the source of the sound.

3. *Loud speakers and devices for advertising.* The use, operation, or playing of any loudspeaker system, sound amplifier or other similar device which produces or reproduces sound which is cast or emitted upon public rights-of-way for the purpose of commercial advertising or for attracting the attention of the public to any building, structure, vehicle or activity, which is being carried on thereon.
4. *Street sales and boisterous conduct.* The offering for sale by shouting or outcry within residential areas, in which loud or boisterous conduct is audible across real property boundaries at a volume to disturb the quiet, comfort or repose of the residential neighborhood.
5. *Animals and birds.* The owning, possessing or harboring of any animal or bird which frequently or continuously howls, barks, meows, squawks, or makes other sounds which create excessive noise across a residential or commercial real property line.
 - a. It shall not be a violation of this section, however, for any animal or bird to give a sound of danger or warning under particular circumstances reasonably requiring the need for a warning.
 - b. For the purpose of this section, the barking of a dog is a violation if the dog barks, bays, cries, howls or makes any other noise continuously for a period of ten minutes, or barks intermittently for one-half hour or more, to the disturbance of others at any time of day or night regardless of whether the dog is physically situated in or upon private property.
6. *Construction and demolition activity.* The operation of any equipment used in construction work, building, excavation, grading, pile driving, pneumatic hammering, demolition, dredging, building alteration or repair work between the hours of 9:00 p.m. of one day and 7:00 a.m. of the next day. This prohibition shall not apply to emergency work or work by the government or government contractors
7. *Fixed mechanical equipment.* The use or operation of any noise-creating air conditioner, compressor unit, power fan or blower, fixed electric motor or engine which causes such excessive and unnecessary noise, unless such noise is muffled and deadened by adequate noise suppression and muffling devices to eliminate annoyance and disturbance to persons within the range of hearing.
8. *Portable mechanical equipment; domestic power tools.* The use or operation of any power tools or portable mechanical equipment, including a power saw, sander, drill, grinder, lawn or garden tool, or similar device, used outdoors in residential areas between the hours of 9:00 p.m. of one day and 7:00 a.m. the

following day so as to cause a noise disturbance across a residential real property boundary.

9. *Motor vehicles; mufflers.* The use or operation of a motor vehicle without a muffling device at least as effective as that installed as original equipment by the manufacturer.
10. *Recreational Vehicles.* The use or operation, of a recreational vehicle (including but not limited to dirt bikes, motocross, all terrain vehicles, dune buggies, and similar off-road vehicles) in such a manner so as to produce a sound that is plainly audible at a distance of 100 feet or more away from the real property line of property used for residential purposes.

[History: Ord. 2011-02]

Sec. 5-52. Exceptions.

- A. The following uses and activities shall be exempt from noise level regulations set forth in this Article:
 1. Noises resulting from any authorized emergency vehicle when responding to an emergency call or acting in time of emergency.
 2. Noises of safety signals, warning devices, and emergency pressure relief valves, when utilized for their intended use. This exception shall not apply to safety signals or warning devices for any unnecessary use or unreasonable period of time. Specifically, this exception shall not apply to fixed building or vehicular burglar alarms when sounded for false alarms or sounded for a period in excess of 30 minutes.
 3. Noises resulting from emergency work as defined herein.
 4. Air conditioners and lawn mowers are exempt from provisions of this chapter when this equipment is functioning in accord with the manufacturers' specifications and with all manufacturers' mufflers and noise reducing equipment in use and in proper operating condition.
 5. Non-amplified crowd noises resulting from activities such as those planned by student, governmental, or community groups, or racing/sport events.
 6. Noises from motor vehicles engaged in a professional or amateur sanctioned, competitive sports event, including practice or time trials for such event.

Sec. 5-54. Penalties, Remedies, and Enforcement Procedures.

- A. Any person or persons, firm or corporation, or any agent thereof who violates any of the provisions of this chapter shall upon conviction be guilty of a second degree misdemeanor offense punishable as provided for under F.S. §§ 775.082 and 775.083.
- B. Violations of this Article are also subject to the City of Waldo code enforcement procedures.
- C. The City Council may also institute any appropriate action or proceeding, including suit for injunctive relief, in order to prevent or abate violations of this Article.
- D. The following procedures shall be followed by the enforcement agent when enforcing this Article:
 - 1. The appropriate city enforcement agent shall investigate and determine if any noise is in violation of the noise prohibitions in this Article.
 - 2. If a noise level is found to be in violation of this Article, the appropriate enforcement agent shall give warning to the person or persons responsible for the unnecessary, excessive or offensive noise.
 - 3. If the excessive noise is not eliminated or abated within a reasonable time after warning, a notice of violation shall be issued, or the person in possession or control of the cause of the excessive noise may be arrested by the Waldo Police Department and charged with violating this chapter.

[History: Ord. 2011-02]

Sec. 5-55. Relationship to Alachua County Noise Regulations.

Nothing in this Article shall be construed as authorizing any noise that is prohibited by the noise regulations adopted by Alachua County, Florida, in Chapter 110 of the Alachua County Code.

[History: Ord. 2011-02]

ARTICLE VII. HAZARDOUS LANDS AND BUILDINGS

Sec. 5-60. Intent.

This Article is declared to be remedial and essential to protect the public health, safety and welfare from the evil of hazardous lands and buildings and it is the intent that this Article be liberally construed to effectuate the purposes stated herein.

Sec. 5-61. Definitions.

The following terms as used in this Article are defined as follows:

Hazardous Building shall mean a building or structure, or any part thereof, which has any or all of the following defects:

- a. The roof, floors, walls or other vertical structural members list, lean or buckle to such an extent that they constitute a danger of falling, collapsing or crumbling or which are in such a condition as to be a danger to human life.
- b. It is in danger of falling or collapsing, or has fallen or collapsed, in whole or in part.
- c. It has been damaged by fire, wind, collision, rot or water damage or other such deterioration so as to have become dangerous to human life.
- d. It has been abandoned, unused or unmaintained so that it constitutes an attractive nuisance to children, vagrants, criminals or vandals.
- e. It has been used or intended to be used for human habitation, but does not have operative sanitary facilities.
- f. It has inadequate facilities for egress in case of fire or panic, or has insufficient stairways, elevators, fire escapes or other means of communications.
- g. It is a building, structure, shed, trailer, mobile home, platform, or area of land which contains or stores hazardous materials, chemicals, or substances, in other than a lawfully permitted and regulated manner.
- h. It is a building, structure, shed, trailer, mobile home, platform, or area of land where the unlawful manufacture or attempt to manufacture controlled substances has taken place, and where a law enforcement agency has determined that the location may contain residual contamination that could be harmful to humans. "Controlled substance" means a drug, substance or immediate precursor listed in

F.S. § 893.033 as may be from time to time amended. The term does not include distilled spirits, wine, malt beverages, intoxicating liquors or tobacco.

Hazardous Land means property on which any of the following exists:

- a. Storage or abandonment of, or pollution by, hazardous materials (other than properly permitted and regulated), including, but not limited to, petroleum products, dangerous chemicals, used tires, acids, and similar substances.
- b. Storage, abandonment or accumulation of trash, filth, litter, debris, garbage or other such materials.
- c. Storage for more than 30 days of any of the following:
 1. Inoperative motor vehicles, or parts of motor vehicles.
 2. Unusable mobile homes, trailers, travel trailers or similar items. An item shall be considered unusable if it is not in a condition for immediate use for its designed purpose.
- d. Excessive growth of grass, weeds, underbrush, bushes, vines and similar growth where the same have not been maintained for a period of more than 30 days and where such growth harbors or is likely to harbor insects, rodents, snakes, or other such pests. Indicators of excessive growth shall include:
 1. Grass and/or weeds in excess of 12 inches in height, unless they are part of a tended and planned garden, xeroscape or other such horticultural endeavor.
 2. Underbrush, bushes and/or vines that:
 - (a) interfere with ingress and egress to any door or window of a building, access to any outbuilding, garage or storage shed;
 - (b) interfere with any utility, access to any water or waste water system, control system, propane or gas tanks, electric or telephone lines; or
 - (c) provide an attractive nuisance for vagrants, criminals or children.
- e. Noxious plants which endanger human life. A noxious plant is a poisonous plant or a plant which has sharp spikes or thorns which could cause injury to humans. Noxious plants which are maintained as part of a garden or xeroscape or other

such horticultural pursuit which provide proper protection from casual contact by visitors or children shall not be considered noxious plants.

- f. Dangerous or noxious animals. The keeping of rats, snakes, fowl or wild animals (other than properly permitted and regulated) shall be considered dangerous or noxious animals.

Owner means the owner of the property, land, building or structure, including any person who, alone or severally with others, holds legal or equitable title to any such property or who claims to hold such interest. The term owner shall include the occupant or caretaker of the property, an heir, a lessee, a mortgagee or agent. The name and address given on the Alachua County Property Appraiser's roll shall be prima facie evidence of ownership and notice to that name and address shall be sufficient for any notice requirements.

Person means natural persons, or any entity, partnership, association, corporation, company or organization of any kind.

Sec. 5-62. Prohibition and Enforcement.

- A. It shall be a violation of this Article for any Owner of property within the City of Waldo to create or allow to exist on such property a condition meeting the definition above of Hazardous Building or Hazardous Land.
- B. This Article may be enforced by way of the Code Enforcement procedures set forth in Chapter 2 of this Code, or by any other lawful means available to the City such as securing injunctive relief through the courts.
- C. It shall be a second degree misdemeanor to alter, deface or remove, or to violate the terms of, any notice placed on a building or structure pursuant to this Article.

Sec. 5-63. Alternative Procedure for Abatement of a Hazardous Building.

- A. If the Code Enforcement Officer determines that a Hazardous Building exists, the Code Enforcement Officer shall prepare an order setting forth findings in support of the determination, and ordering that one or more of the following actions be taken by the owner within a period of time as set forth in the order:
 - (1) *Order to demolish.* If the Code Enforcement Officer finds that the structure is damaged, deteriorated or defective to such an extent that the cost of restoration or repair thereof will exceed 75 percent of the assessed value thereof, the Code Enforcement Officer may order the demolition or removal of the structure.
 - (2) *Order to repair.* If the Code Enforcement Officer determines that a structure does not meet the standard for demolition, the Code Enforcement Officer may order

the repair, restoration or replacement of any part of the structure, including the removal of any work done in violation of the Land Development Code and/or Code of Ordinances.

- (3) *Order to Remediate.* If the Code Enforcement Officer determines that the building is hazardous due to the unlawful manufacture or attempt to manufacture controlled substances at the location, the Officer may order the owner to contract with appropriate environmental testing and cleaning firms to conduct an on-site assessment, complete clean-up and remediation testing and follow-up testing, and determine that the property risks are sufficiently reduced to allow safe human occupancy of the dwelling.
- (4) *Order designating building or dwelling as unfit for human habitation.* Whenever the Code Enforcement Officer determines that any building or dwelling or any part thereof constitutes a hazard to the safety, health or welfare of the occupants or to the general public because it lacks maintenance, sanitary facilities or otherwise fails to comply with the standards established by this Article, the Code Enforcement Officer may issue an order designating such building or dwelling unfit for human habitation, and that the dwelling shall be posted with a notice in substantially the following form:

**THESE PREMISES NOT FIT
FOR HUMAN OCCUPANCY**

Notice is given pursuant to Chapter 5, Article VII, of the City of Waldo Code, that this building is not fit for human occupancy and shall not be used or occupied. Those persons violating this notice shall be subject to arrest and punishment, as provided by law.

**IT SHALL BE A SECOND DEGREE MISDEMEANOR TO
ALTER, DEFACE OR REMOVE THIS NOTICE OR TO
ENTER THIS BUILDING DURING THE PENDENCY OF THIS
ORDER.**

- (5) *Order to vacate.* Whenever the Code Enforcement Officer designates a building or dwelling as unfit for human habitation, or orders that the building shall be demolished, the Code Enforcement Officer may order the affected building or dwelling vacated.
- (6) *Order to secure.* Whenever the Code Enforcement Officer determines that a structure may be made safe by securing such structure, the Code Enforcement Officer may order such structure be boarded and sealed until such time as the structure is repaired or demolished.

- B. Prior to proceeding with an Order to Demolish or an Order to Vacate, the Code Enforcement Officer shall obtain approval for proceeding from the City Council. The City Council shall hear a presentation on the matter by the City Manager and Code Enforcement Officer and shall determine whether to proceed with the procedures for vacation and/or demolition set forth herein.

- C. Upon entering an order finding a Hazardous Building to exist, the Code Enforcement Officer shall post a notice at the entrance of the building or in a conspicuous location on the premises where the Hazardous Building exists. The notice shall be in substantially the following form:

NOTICE TO THE OWNER AND ALL PERSONS INTERESTED IN THE ATTACHED PROPERTY

IT SHALL BE A SECOND DEGREE MISDEMEANOR TO ALTER, DEFACE OR REMOVE THIS NOTICE OR TO ENTER THIS BUILDING DURING THE PENDENCY OF THIS ORDER.

A HAZARDOUS BUILDING HAS BEEN FOUND TO EXIST AT THIS SITE: _____ [Describe Location] _____.

Pursuant to City of Waldo Chapter 5, Article VII, it has been determined that the building located on this site is a Hazardous Building and poses a threat to the life, health, or safety of the occupant or general public. By order of the City of Waldo Code Enforcement Officer, this property must be: _____ [Describe remedial actions required] _____.

It is the responsibility of the property owner(s) to contact the Code Enforcement Officer and to take action to properly and legally comply with the order of the Code Enforcement Officer and take the actions described above within _____ days of the date of this notice. If corrective actions have not been taken within this time period, demolition or basic remedial action to temporarily secure the building shall be taken by the City on the owner's behalf and at the owner's expense. Demolition may include all tangible personal property such as vehicles, appliances, etc., and other structure that may pose a threat to the health and safety of the general public.

YOU HAVE THE RIGHT TO A HEARING BEFORE THE CODE ENFORCEMENT BOARD ON THE QUESTION WHETHER THIS BUILDING CONSTITUTES A HAZARDOUS BUILDING UNDER THE CITY OF WALDO CODE. YOU MUST REQUEST A HEARING NOT LATER THAN _____ DAYS FROM THE DATE OF THIS NOTICE. IF YOU DO NOT REQUEST A HEARING WITHIN SUCH TIME, OR REQUEST A HEARING BUT DO NOT ATTEND THE HEARING, THE CITY MAY TAKE THE NECESSARY REMEDIAL ACTIONS AND YOU AS OWNER WILL BE LIABLE FOR THE COST THEREOF.

Dated this _____ day of _____, 20_____.

Signed: _____
City of Waldo Code Enforcement Officer
[Address]
[Telephone Number]

D. In addition to the posting of notice as set forth above, the following notice shall be provided:

- (1) A notice providing substantially the same information as the posted notice shall be provided by certified mail, return receipt requested, and first class mail to the

owner of the Hazardous Building and all interested parties. An interested party shall be defined to include those parties whose interest in the property is recorded in the Official Records of Alachua County, Florida.

- (2) A notice of the Code Enforcement Officer's order shall be published once in a newspaper of general circulation in Alachua County providing substantially the same information as the posted notice.
- E. Upon a timely request for hearing by any person or entity claiming an interest in the Hazardous Building, a hearing on such violation shall be set before the Code Enforcement Board within 30 days of the request for a hearing. No action shall be taken by the Code Enforcement Board until such hearing has been held. Notice of the hearing shall be provided to the owner and all interested parties by first class mail.
- F. The Code Enforcement Board shall conduct a hearing pursuant to the code enforcement hearing procedures set forth in Chapter 2 of the City of Waldo Code, and Chapter 162 of Florida Statutes, subject to the following:
- (1) The Code Enforcement Officer shall have the burden of showing by clear and convincing evidence that the building is a Hazardous Building pursuant to the criteria set forth in this Article. The City Attorney shall represent the Code Enforcement Officer at the hearing.
 - (2) If the Code Enforcement Board finds that a Hazardous Building exists, an order shall be entered requiring that one or more of the remedies set forth in A above shall be taken within a prescribed period of time.
- G. Upon the rendition of the final order by the Code Enforcement Board, the Code Enforcement Officer shall ensure that the following takes place:
- (1) The order shall be provided to the owner and interested parties by first class mail.
 - (2) The order shall be posted conspicuously on the property where the Hazardous Building is located.
 - (3) The order shall be recorded, together with the street address and legal description of the property, in the Public Records of Alachua County, Florida. Said recording shall constitute constructive notice to any subsequent purchaser, transferee, grantee, mortgagee, mortgagor, lessee, lienor, and all persons having, claiming, or acquiring any interest in the property or affected thereby.

Sec. 5-64. Failure to Comply with Order Relating to Hazardous Building.

- A. Upon the refusal, failure, or neglect of a person to comply with a final order of the Code Enforcement Officer or the Code Enforcement Board entered pursuant to this Article, the Code Enforcement Officer shall provide written notice to the person informing the person of the Code Enforcement Officer's finding that there has been a failure to comply, and of the person's right to request a hearing on such finding. The notice shall be sent by first class mail, and shall be posted on the property. The person shall be given not less than 20 calendar days from the date the notice is sent to request a hearing. If a hearing is requested it shall be set before the Code Enforcement Board.
- B. If a hearing is requested, the Code Enforcement Board shall conduct a hearing pursuant to the code enforcement hearing procedures set forth in Chapter 2 of the City of Waldo Code, and Chapter 162 of Florida Statutes, subject to the following:
- (1) The Code Enforcement Officer shall have the burden of showing by clear and convincing evidence that there is a lack of compliance with an order of the Code Enforcement Officer or Code Enforcement Board, entered pursuant to Section 5-62 above. The City Attorney shall represent the Code Enforcement Officer at the hearing.
 - (2) If the Code Enforcement Board finds a lack of compliance with an order of the Code Enforcement Officer or Code Enforcement Board, an order shall be entered to that effect.
- C. Notice of the hearing shall be provided to the owner and all interested parties by first class mail.
- D. Upon entry of an order by the Code Enforcement Officer pursuant to this Section, or if a hearing was requested, upon rendition of the final order by the Code Enforcement Board, the Code Enforcement Officer shall ensure that the following takes place:
- (1) The order shall be served on the owner and interested parties by regular and certified mail, return receipt requested, which service is deemed complete upon mailing.
 - (2) The Order shall be posted conspicuously on the property where the Hazardous Building and/or Hazardous Land is located.
 - (3) The order shall be recorded, together with the street address and legal description of the property, in the Public Records of Alachua County, Florida. Said recording shall constitute constructive notice to any subsequent purchaser, transferee, grantee, mortgagee, mortgagor, lessee, lienor, and all persons having, claiming, or acquiring any interest in the property or affected thereby.

- E. Upon expiration of the period during which the Final Order of the Code Enforcement Board may be appealed, the Code Enforcement Officer shall seek authorization from the City Council to use City resources or City funds to carry out the remedial actions ordered by the Code Enforcement Officer or Code Enforcement Board. If such authorization is obtained, the Code Enforcement Officer shall make arrangements for the remedial actions to be undertaken, and shall keep an accurate accounting of all costs incurred by the City.

- F. Upon completion of the remedial work, the Code Enforcement Officer shall provide written notice to the owner and interested parties informing them of the Code Enforcement Officer's cost accounting, and of their right to request a hearing on such accounting. The notice shall inform the owner and interested parties that if no hearing is requested, then an order will be entered by the Code Enforcement Board assessing such costs, and that such order shall be recorded and shall become a lien on the property. The notice shall be sent by first class mail, and shall be posted on the property. The owner or any interested party shall be given not less than 20 calendar days from the date the notice is sent to request a hearing. If a hearing is requested it shall be set before the Code Enforcement Board for the purpose of assessing the costs of the remedial work against the owner of the property. Notice of the hearing shall be provided to the owner and interested parties by first class mail and shall be posted on the property.

- G. The Code Enforcement Board shall conduct a hearing pursuant to the code enforcement hearing procedures set forth in Chapter 2 of the City of Waldo Code, and Chapter 162 of Florida Statutes, subject to the following:
 - (1) The Code Enforcement Officer shall have the burden of showing by clear and convincing evidence the amount of costs incurred by the City in undertaking the remedial work. The City Attorney shall represent the Code Enforcement Officer at the hearing.

 - (2) The Code Enforcement Board may enter an order assessing costs against the owner of the property pursuant to Section 162.09, Florida Statutes, and such costs may become a lien against the owner's property pursuant to that same section.

[History: Ord. 2013-01; 2015-05]

Sections 5-65 to Sec. 5-69 reserved.

**ARTICLE VIII. SALE AND USE OF E-CIGARETTES
AND LIQUID NICOTINE**

Sec. 5-70. Declaration of policy; legislative findings.

It is hereby ascertained, determined and declared that:

- (1) The Waldo City Council is concerned about a potential public health crisis caused by the use of e-cigarettes and therefore finds it to be in the public interest to implement measures to curb the use of e-cigarettes until reliable scientific studies and data are available on the potential health risks to e-cigarette users and the impact of secondhand emissions caused by the use of e-cigarettes.
- (2) New, unregulated high-tech smoking devices, commonly referred to as electronic cigarettes or e-cigarettes, have recently been made available to consumers. These devices closely resemble and purposefully mimic the act of smoking by having users inhale vaporized liquid created through an electronic heating system, and then expelling the vapors via a cartridge that often contains a concentration of pure nicotine. The cartridge and heating element are housed in a device that is typically created to look exactly like a traditional cigarette, cigar or pipe. After inhaling, the user then blows out the heated vapors producing a cloud of undetermined substances.
- (3) Nicotine is one of the most highly addictive substances available for public consumption. Studies show that adolescents can become addicted to nicotine after ingesting the equivalent of 20 traditional cigarettes. The nicotine content in e-cigarettes is unknown and unspecified, and the appeal created by the flavored e-cigarette can lead young people into a lifetime of nicotine addiction.
- (4) The FDA has not approved the use of e-cigarettes as smoking cessation devices, and has publicly expressed concerns over the safety of these devices.
- (5) The City Council therefore finds it to be in the public interest to impose the restrictions the sale and use of e-cigarettes contained in this Article.

Sec. 5-71. Definitions.

For the purpose of this Article, the following words and terms shall have the meanings given herein:

City means the City of Waldo, Florida.

E-cigarette means any electronic device composed of a mouthpiece, heating element, battery and electronic circuits that provides a vapor of liquid nicotine and/or other substances to the user that

he or she inhales in simulation of smoking. This term shall include such devices whether they are manufactured as e-cigarettes, e-cigars, e-pipes or under any other product name.

Liquid nicotine means any liquid product composed either in whole or part of pure nicotine and other substances and manufactured for use with e-cigarettes.

Open display unit, in the context of the retail sale of e-cigarettes and liquid nicotine, means any device, furniture or furnishing within or upon which e- cigarettes or liquid nicotine are displayed to customers, and includes but is not limited to any case, rack, shelf, counter, table, desk, kiosk, booth, stand and other surface.

Person means any natural person or artificial entity capable of suing and being sued in the State of Florida.

Self-service merchandising, in the context of the retail sale of e-cigarettes and liquid nicotine, means the open display of e-cigarettes and liquid nicotine, whether packaged or otherwise, for direct retail customer access and handling prior to purchase without the intervention or assistance of the retailer or the retailer's owner, employee or agent. Such open display includes the use of an open display unit.

Smoking means smoking as defined in Section 386.203, Florida Statutes, and any successor thereto.

Use of an e-cigarette means the heating or ignition of an e-cigarette which creates a vapor of liquid nicotine and/or other substances which the user can inhale in simulation of smoking.

Sec. 5-72. Prohibitions on Sale and Use.

- A. It is prohibited for any person to sell or offer for sale e-cigarettes or liquid nicotine within the City to a person under eighteen years of age.
- B. The use of an e-cigarette is prohibited at all locations within the City at which smoking is prohibited under Chapter 386, Florida Statutes.
- C. The use of an e-cigarette is prohibited at all parks, baseball fields, or other outdoor recreational facilities located within the City.

Sec. 5-73. Prohibition on Self-Service Merchandising.

- A. No person engaged in the retail sale of e-cigarettes or liquid nicotine shall sell, permit to be sold, offer for sale, or display for sale e-cigarettes or liquid nicotine by means of self-service merchandising.

- B. No person engaged in the retail sale of e-cigarettes or liquid nicotine shall place e-cigarettes or liquid nicotine in an open display unit unless the same is located in an area that is inaccessible to customers.

[History: Ord. 2014-03]