

**CHAPTER 7
PUBLIC UTILITIES AND SERVICES**

Table of Contents

ARTICLE 1. WATER AND SEWER UTILITY

Sec. 7-1.	Establishment of Public Utilities.	3
Sec. 7-2.	Connection with Water System.	3
Sec. 7-3.	Water Capacity Charges	3
Sec. 7-4.	Connection with Sewer System Required.	4
Sec. 7-5.	Sewer Capacity Charges.	5
Sec. 7-6.	Exceptions to Connections.	6
Sec. 7-7.	Connections May Be Made by City.	6
Sec. 7-8.	Rates.	7
Sec. 7-9.	Service to Customers Outside City Limits.	7
Sec. 7-10.	Unlawful Connection.	7
Sec. 7-11.	Unlawful Construction.	7
Sec. 7-12.	Connecting Old Plumbing.	8
Sec. 7-13.	Sanitary Requirements.	8
Sec. 7-14.	Disposal Requirements.	8
Sec. 7-15.	Septic Tanks.	8
Sec. 7-16.	Maintenance of Plumbing System.	9
Sec. 7-17.	Payment of Fees and Bills Required.	9
Sec. 7-18.	Collection of Sewer Fees Where Owner Has Private Water Supply	10
Sec. 7-19.	Failure to Maintain Plumbing System.	10
Sec. 7-20.	No Free Service.	10
Sec. 7-21.	Separate Connections for Each Separate Unit.	10
Sec. 7-22.	Meters.	11
Sec. 7-23.	Cross-Connection Control Program.	11
Sec. 7-24.	Penalties	12

ARTICLE 2. FIRE SERVICES

Sec. 7-30.	Separation from Fires.	13
Sec. 7-31.	Marking of Fire Control Vehicles.	13
Sec. 7-32.	Enforcement.	13

ARTICLE 3. WATER CONSERVATION

Sec. 7-40.	Intent and Purpose.	14
Sec. 7-41.	Definitions.	14
Sec. 7-42.	Application of Article.	14
Sec. 7-43.	Amendments to Year-Round Water Conservation Measures Water Shortage Plan	15

Sec. 7-44.	Applicability of Year-round Water Conservation Measures.	15
Sec. 7-45.	Declaration of Water Shortage; Water Shortage Emergency.	15
Sec. 7-46.	Enforcement.	15
Sec. 7-47.	Water Users to Accept Provisions of Article.	16

ARTICLE 4. ELECTRIC FRANCHISE

Sec. 7-60.	Grant of Franchise.	17
Sec. 7-61.	Installation and Maintenance of Facilities.	17
Sec. 7-62.	Liability.	18
Sec. 7-63.	Rates.	18
Sec. 7-64.	Consideration.	18
Sec. 7-65.	Provision of Electric Services by Others.	19
Sec. 7-66.	Forfeiture.	21
Sec. 7-67.	Audit.	21
Sec. 7-68.	Miscellaneous.	22

**CHAPTER 7
PUBLIC UTILITIES AND SERVICES**

ARTICLE 1. WATER AND SEWER UTILITY

Sec. 7-1. Establishment of Public Utilities.

- A. The present waterworks system now in existence in the City of Waldo, Florida, together with any and all extensions thereof and replacements thereto, be and the same is hereby established and declared to be a public utility for the use and benefit of the City of Waldo, Florida, in the maintenance of public health, welfare and general sanitary condition throughout the City.
- B. The present sanitary sewerage system now in existence in the City of Waldo, Florida, together with any and all extensions thereof and replacements thereto, and the sanitary sewerage disposal system, be and the same is hereby established and declared to be a public utility for the use and benefit of the City of Waldo, Florida, in the maintenance of public health, welfare and general sanitary condition throughout the City.

[History: Ord. 657 (1957); Ord. 660 (1960)]

Sec. 7-2. Connection with Water System.

- A. Where the same shall be available, the owner of every lot or parcel of land within the City limits of Waldo, Florida shall connect or cause the plumbing of any building or buildings, including mobile homes, thereon to be connected with the municipal waterworks of the City of Waldo, Florida, and use the facilities of such system. All such connections shall be made in accordance with the rules and regulations which shall be adopted from time to time by the City Council of the City of Waldo, Florida, which rules and regulations shall provide for a charge for making any such connections in such reasonable amount as such Council may fix and determine. All costs of connection between the meter and customer plumbing shall be paid by the customer.
- B. There shall be a cut-on or service fee paid to the City of Waldo, Florida, by any customer who requests service to and site upon which an existing service meter is placed.

[History: Ord. 5-84; Ord. 2006-05D]

Sec. 7-3. Water Capacity Charges

- A. Each applicant for water service shall pay to the City, prior to service being rendered, a applicable water capacity charge based on equivalent residential units (ERUs). An ERU shall mean any structure which provides living accommodations for a single family. A

structure containing more than one ERU shall be charged according to the number of ERUs located in the structure. The water capacity fee shall be, for each single-family residential unit, duplexes, multifamily dwellings, RV site and mobile home, an amount set by the City Council by resolution. For the purpose of computing water capacity fees for nonresidential users, an ERU is equivalent to 300 gallons per day. In order to determine the number of ERUs or portions, the City will calculate those flow requirements as set forth in F.A.C. ch. 64E.

- B. All building permits shall require that construction must commence within six months from the date of issuance, and the construction shall be completed within one year from the date of issuance of the building permit in order to vest in then-current charges in this section. The commencement of construction shall be defined as footers being poured. If construction does not commence within six months from the date of issuance of the building permit, the owner of the permit shall be subject to the water capacity charges then existing and shall be required to pay such additional charges prior to further construction. If construction is not completed within one year from the date of issuance of the building permit, water capacity charges shall not be vested and the owner of the building permit shall be billed the current water capacity charge at time of completion of construction. Fees paid prior to completion of construction by the owner of the permit are nontransferable and nonrefundable.
- C. The water capacity charge shall be paid upon the issuance of the building permit. For any construction already having a building permit at the time of adoption of this charge, the charge shall be paid prior to meter installation.
- D. Those properties already connected to the water system shall not pay an additional water capacity charge unless there are further improvements or a change in use from residential to non-residential. In the event there is a change of use from residential to non-residential that results in an increased ERU calculation, the difference between the new ERU and the residential ERU charge shall be paid prior to the new use beginning.

[History: Ord. 2006-05D]

Sec. 7-4. Connection with Sewer System Required.

- A. The owner of each lot or parcel of land within the City of Waldo, Florida, upon which lot or parcel of land any building, or trailer or mobile home used as a dwelling or which produces wastewater, is now situated or shall hereafter be situated, shall connect or cause such building or buildings or trailers or mobile homes to be connected with the public sewer or wastewater system facilities of the City of Waldo, Florida, and use such facilities within 12 months following notification to do so by the Clerk of the City of Waldo, Florida. All such connections shall be made in accordance with rules and regulations as adopted from time to time by the City Council, Florida, which rules and

regulations shall provide for a charge for making any such connections in such reasonable amount as such Council may fix and determine. No connection or connections shall be required where said sewer or wastewater line is more than 200 feet from lot or parcel.

- B. No less than 1 year prior to the date the sewer system will become available, the City shall notify the affected owner of the onsite sewage treatment and disposal system of the anticipated availability of the sewer system and shall also notify the owner that the owner will be required to connect to the sewer system within 1 year of the actual availability. The owner shall have the option of prepaying the amortized value of required connection charges in equal monthly installments over a period not to exceed 2 years from the date of the initial notification of anticipated availability.

[History: Ord. 5-84; Ord. 2006-05D; Ord. 2011-06]

Sec. 7-5. Sewer Capacity Charges.

- A. Each applicant for sewer service shall pay to the city, prior to service being rendered, an applicable sewer capacity charge based on equivalent residential units (ERUs). An ERU shall mean any structure which provides living accommodations for a single family. A structure containing more than one ERU shall be charged according to the number of ERUs located in the structure. The sewer capacity fee shall be, for each single-family residential unit, duplexes, multifamily dwellings, RV site and mobile home, an amount set by the City Council by resolution. Dump stations shall be subject to a separate charge. For the purpose of computing sewer capacity fees for nonresidential users, an ERU is equivalent to 300 gallons per day. In order to determine the number of ERUs or portions, the City will calculate those flow requirements as set forth in F.A.C. ch. 64E.
- B. All building permits shall require that construction must commence within six months from the date of issuance, and the construction shall be completed within one year from the date of issuance of the building permit in order to vest in then-current charges in this section. The commencement of construction shall be defined as footers being poured. If construction does not commence within six months from the date of issuance of the building permit, the owner of the permit shall be subject to the sewer capacity charges then existing and shall be required to pay such additional charges prior to further construction. If construction is not completed within one year from the date of issuance of the building permit, sewer capacity charges shall not be vested and the owner of the building permit shall be billed the current sewer capacity charge at time of completion of construction. Fees paid prior to completion of construction by the owner of the permit are nontransferable and nonrefundable.

- C. The sewer capacity charge shall be paid upon the issuance of the building permit. For any construction already having a building permit at the time of adoption of this charge, the charge shall be paid prior to meter installation.
- D. Those properties already connected to the sewer system shall not pay an additional sewer system capacity charge unless there are further improvements or a change in use from residential to non-residential. In the event there is a change of use from residential to non-residential that results in an increased ERU calculation, the difference between the new ERU and the residential ERU charge shall be paid prior to the new use beginning.
- E. Buildings that were within 200 feet of the city sewer line at the time of adoption of the sewer capacity charge, but which could not be connected to the sewer line due to engineering or other factors outside the control of the property owner, shall be exempt from paying the first ERU of the sewer capacity charge when such connection is made. In no circumstances shall this exemption apply more than once to any property.

[History: Ord. 2006-05D]

Sec. 7-6. Exceptions to Connections.

This Article shall not be construed to require or entitle any person to cross the private property (unless easement exists) of another to make connection to the water or wastewater system.

[History: Ord. 5-84; Ord. 2006-05D]

Sec. 7-7. Connections May Be Made by City.

If any owner of any lot or parcel of land within the City shall fail and refuse to connect with and use the facilities of the water and wastewater system of the City after notification by the City, then the City shall be authorized to make such connections, entering on or upon any such lot or parcel of land for the purpose of making such connection. The City shall thereupon be entitled to recover the costs of making such connection, together with reasonable penalties and interest and attorney's fees, by suit in any Court of competent jurisdiction. In addition and as an alternative means of collecting such costs of making such connection, the City shall have a lien on such lot or parcel of land for such cost, which lien shall be of equal dignity with the lien of the State, County and municipal taxes. Such lien may be foreclosed by the City in the same manner provided by the laws of Florida for the foreclosure of mortgages upon real estate.

[History: Ord. 5-84; Ord. 2006-05D]

Sec. 7-8. Rates.

- A. Monthly rates for water and wastewater usage shall be charged in monthly bills to all customers, both residential and commercial. These rates shall be set by the City Council by resolution.
- B. The City reserves the right to enter into contracts with large users of water an/or sewer or wastewater service for the purpose of setting and determining a monthly charge or rate for use of such services, which monthly rate or charge may be computed upon a different basis than set forth in the paragraph above. Such contracts shall be entered into by means of resolution duly adopted by the City Council.

[History: Ord. 5-84; Ord. 2006-05D]

Sec. 7-9. Service to Customers Outside City Limits.

Water capacity charges, sewer capacity charges, and monthly rates and fees for service provided to properties outside the corporate limits of the City of Waldo shall be subject to a 25 percent surcharge.

[History: Ord. 2006-05D]

Sec. 7-10. Unlawful Connection.

No person shall be allowed to connect into any water line or sewer or wastewater line owned by the City without the written consent of the City, and then the connection with such line shall be made only under the direction and supervision of the City. Any property owner or plumber who shall make any connection without such consent of the City shall upon conviction be subject to the penalties hereinafter provided.

[History: Ord. 5-84; Ord. 2006-05D]

Sec. 7-11. Unlawful Construction.

No person, group of persons, firm, or corporation shall build or remodel or cause to be built or remodeled any structure (including mobile homes) used or intended to be used for human habitation or which uses water or produces wastewater within the City limits which is within 200 feet of a public sewer or wastewater line, unless it shall be connected to the City water and wastewater system.

[History: Ord. 5-84; Ord. 2006-05D]

Sec. 7-12. Connecting Old Plumbing.

Whenever it is desirable to connect old plumbing with the City's sewer or wastewater main and/or water line, the owner or plumber contemplating doing such work shall notify the City Inspector who will inspect said old plumbing and notify the owner or plumber what alterations will be necessary to place said old plumbing in an acceptable condition for such connection. Any owner or plumber who shall make any connection without the approval of the plumbing inspector shall, upon conviction, be subject to the penalties herein provided.

[History: Ord. 5-84; Ord. 2006-05D]

Sec. 7-13. Sanitary Requirements.

Every residence and building in which human beings reside, are employed or congregate, shall be required to have a sanitary method of disposing of human excrement, namely either a sanitary water closet that is connected with the City sewer or wastewater system, or an approved type of septic tank. A septic tank will be used only if the property is more than 200 feet from the sewer line.

[History: Ord. 5-84; Ord. 2006-05D]

Sec. 7-14. Disposal Requirements.

It shall be unlawful for any person, persons, firm or corporation owning or leasing any premises in the City to permit the disposal of any human excrement on any property, leased or rented by any such person, firm or corporation or the agent of any such person, firm or corporation, except in a sanitary water closet where sewage lines are available as defined above. The City may authorize temporary use of a sanitary portable water closet at construction sites, fairs and special events.

[History: Ord. 5-84; Ord. 2006-05D]

Sec. 7-15. Septic Tanks.

No septic tank other than those approved by the appropriate State and County agencies may be placed or constructed within the City limits. No septic tank shall be constructed or located on any lot or parcel which is within 200 feet of a sewer or wastewater line.

[History: Ord. 5-84; Ord. 2006-05D]

Sec. 7-16. Maintenance of Plumbing System.

The owner of property shall be responsible for maintaining and keeping clean the water and sewer pipes leading and connected from the plumbing system to the City's distribution lines and sewer or wastewater mains.

[History: Ord. 5-84; Ord. 2006-05D]

Sec. 7-17. Payment of Fees and Bills Required.

- A. Bills for the monthly charges and fees hereinbefore mentioned shall be submitted and shall be payable on the 1st day of each month and if such monthly bill shall be and remain unpaid on and after the 10th day of such month a penalty as established by resolution of the City Council shall be imposed and be added to said bill, and the water service to the customer shall be subject to discontinuance if the bill remains unpaid by the 20th of the month.
- B. The delinquent customer shall be given notice at least 7 days prior to the discontinuation of any service. Service shall not be disconnected if the customer pays all amounts owed within the 7-day notice period. The notice shall be posted on the premises where there service is rendered, or otherwise personally delivered to the customer. The notice shall state the amount owed and shall inform the customer that the amount due may be contested by contacting City Hall during normal working hours. If the City Manager finds that there is any doubt as to the amount owed, the matter shall be placed on the agenda of the next City Council meeting at which the delinquent customer may be heard and a final decision shall be rendered by the Council.
- C. After water to a customer has been discontinued pursuant to the procedures in A and B above, the account shall be closed as of the date of discontinuance if payment of all amounts due has not been received within 14 days of the date of the discontinuance. Upon closure of the account, outstanding charges shall be collected against any deposits on hand, with any balance of such deposits returned to the customer. In order for the customer to reinstate water service, a new account shall be opened, but only if all past due amounts, connection fees, and required deposits are paid in full.
- D. The minimum monthly charge for water and sewer shall be billed to all current customers of the utility system, regardless of whether the service address is occupied. There shall be no temporary discontinuance of billing for periods during which the service address is not occupied, such as when the occupants of a residence are away on vacation. Billing shall cease only when a customer's account is terminated.
- E. On a case by case basis, the City Manager may waive sewer usage fees, but not sewer base charges, under circumstances including, but not necessarily limited to:
 - 1. The customer discovers and repairs a leak in the customer's water lines.
 - 2. The customer fills a swimming pool, or otherwise uses a large amount of water that has no impact on the sewer system. Approval by the City Manager of such waiver of sewer

charges shall be obtained in advance of the usage. Under no circumstances shall this include use of water due to a leak that the customer knows about but does not repair.

[History: Ord. 5-84; Ord. 2006-05D; Ord. 2009-04; Ord. 2013-04]

Sec. 7-18. Collection of Sewer Fees Where Owner Has Private Water Supply.

Where sewage or wastewater disposal fees are not paid in accordance with provisions outlined above, in the instances where the owner has his own private water supply, the City shall have a right to cut off such water supply to the plumbing system and the owner shall have no right to reconnect his own private water supply until the sewage disposal fees shall have been paid in full. Any violation of this provision by reconnecting his private water supply until such sewage fees are paid in full shall be considered a violation of this Article and subject to the penalties as provided.

[History: Ord. 5-84; Ord. 2006-05D]

Sec. 7-19. Failure to Maintain Plumbing System.

Failure to keep the sewer pipe, i.e., the pipe leading from the plumbing system to the City main, clean and maintained in a proper manner will give the City the right to cut off the water connection, which shall not be reconnected until the sewer pipe is cleaned and maintained properly. In those instances where the owner has his own private water supply, the City shall have a right to cut off such water supply to the plumbing system and the owner shall have no right to reconnect his own private water supply until the sewer pipe leading from the plumbing system to the City main has been maintained and cleaned and in proper condition.. Any violation of this provision by reconnecting his private water supply or the connection from the City water line, until such sewer pipes are cleaned and maintained properly shall be considered a violation of this Article and subject to the penalties hereinafter provided.

[History: Ord. 5-84; Ord. 2006-05D]

Sec. 7-20. No Free Service.

No water nor sewage or wastewater disposal service shall be furnished or rendered free of charge to any person, firm or corporation whatsoever, and the City and each and every agency, department or instrumentality which uses either or both services shall pay therefore at the rates fixed by this Article.

[History: Ord. 5-84; Ord. 2006-05D]

Sec. 7-21. Separate Connections for Each Separate Unit.

Each residential unit whether occupying one or more lots and whether it shall occupy any lot or parcel jointly with any other residential unit shall be considered a separate unit for the payment

of the water fees and the sewage fees, and separate connections and meters shall be required for each such unit.

[History: Ord. 5-84; Ord. 2006-05D]

Sec. 7-22. Meters.

- A. The City may establish a meter installation charge to cover the cost of installing a meter for a new, or re-established, connection.
- B. A customer may request that the customer's meter be tested by the City for accuracy. If the meter is determined to be inaccurate, it shall be replaced by the City at no charge to the customer.
- C. A customer may request, at any time, the installation of a new meter at the customer's cost.

[History: Ord. 2009-04]

Sec. 7-23. Cross-Connection Control Program.

- A. The purpose of the cross connection control program is to protect the health, safety, and welfare of those persons consuming potable water from the city water system through preventing waterborne diseases and contaminants from entering the distribution system. The program is intended to prevent water from private plumbing systems, which could contain water borne diseases and contaminants, from entering the public water system through backflow or cross connection.
- B. The *Manual of Cross-Connection Control*, Florida Rural Water Association, November, 2006, is hereby adopted and incorporated by reference as part of this section. The Manual shall be maintained by the City Manager and copies thereof shall be available at City Hall for public use, inspection and copying. This manual lists the type of facilities and plumbing devices that require backflow prevention.
- C. Under the rules of the Florida Department of Environmental Protection, Section 62-555.360, F.A.C., relating to cross connection, the city has the primary responsibility to prevent water from unapproved sources, or any other substances, from entering the water system. Therefore, upon detection of a prohibited cross-connection, the City Manager is directed to either eliminate the cross-connection by requiring the installation of an appropriate backflow prevention or discontinue service until the contamination source is eliminated.

- D. The requirement for the installation of a backflow preventer may be waived at the discretion of the City Manager, or designee, if such official finds that adequate protection against cross-connections is being provided by the customer.
- E. The customer's responsibility starts at the water service connection from the city potable water system. The costs of installing, operating and maintaining backflow preventers shall be the responsibility of the customers required by the City Manager, or designee, to install and maintain backflow prevention. The customer shall maintain accurate records of the test and repairs made to the backflow prevention devices and provide the city with copies of such records as required in the manual.
- F. In the event of accidental contamination of the public or customer's potable water supply system due to backflow from the customer's premises, the customer shall promptly take steps to confine further spread of the contamination with the customer's premises and shall immediately notify the city of the hazardous condition.
- G. Service of water to any premise may be disconnected by the city if a required backflow prevention device is not installed, tested and maintained as required in the manual or has been removed or bypassed, or if unprotected cross-connections exist on the premises and there is inadequate backflow protection at the service connection. Water service will not be restored until such conditions or defects are corrected. All turn-off and turn-on service charges shall be paid by the customer.

[History: Ord. 2012-02]

Sec. 7-24. Penalties.

Any person, firm or corporation violating any of the provisions of this Article other than provisions regarding payment of monthly fees and charges, shall, upon conviction thereof, for each offense, be subject to a fine not to exceed \$500 or imprisonment not to exceed 60 days in jail or both such fine and imprisonment. Each day a violation occurs or continues to occur will be a separate violation. Any failure or refusal by an owner to connect to the City meter or sewer or wastewater system after notification to do so as hereinabove provided, or any failure or refusal to pay the charges or rates hereinabove provided other than monthly fees, shall be construed to be a violation of this Article. Any and all fees, charges, monetary penalties, attorney's fees, costs and expenses shall be in addition to or in the alternative of such fine or imprisonment.

[History: Ord. 5-84; Ord. 2006-05D]

Section 7-25 through 7-29 reserved.

ARTICLE 2. FIRE SERVICES

Sec. 7-30. Separation from Fires.

- A. At all fires within the City limits of Waldo, Florida, on which the volunteer Fire Department and/or the City Fire Department is called upon to respond, all persons and/or vehicles except those used in the control of said fires, or by duly authorized firemen, shall remain at least 500 feet from said fires.
- B. No person shall interfere with any firemen in the extinguishment and/or control of fires.

[History: Ord. 5-73]

Sec. 7-31. Marking of Fire Control Vehicles.

All fire control vehicles shall be appropriately marked so that they can be identified, including those used by volunteer firemen.

[History: Ord. 5-73]

Sec. 7-32. Enforcement.

Any person violating the provisions of this Article shall, upon conviction, be punished by fine of not more than \$500.00 or by imprisonment not to exceed sixty (60) days, or by both such fine and imprisonment.

[History: Ord. 5-73]

Section 7-33 through 7-39 reserved.

ARTICLE 3. WATER CONSERVATION

Sec. 7-40. Intent and Purpose.

It is the intent and purpose of this Article to protect the water resources of the City of Waldo from inefficient use at all times and overutilization during periods of water shortage by assisting the Suwannee River Water Management District in the implementation of its Year-Round Water Conservation Measures and Water Shortage Plan.

Sec. 7-41. Definitions.

For the purpose of this Article the following terms, phrases, words and their derivatives shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural. The word "shall" is always mandatory and not merely directory.

District means the Suwannee River Water Management District.

Person means any person, firm, partnership, association, corporation, company, or organization of any kind.

Water Resource means any and all water on or beneath the surface of the ground, including natural or artificial water courses, lakes, ponds, or diffused surface water, and water percolating, standing, or flowing beneath the surface of the ground.

Water shortage condition is when sufficient water is not available to meet present or anticipated needs of persons using the water resource, or when conditions are such as to require temporary reduction in total water usage within a particular area to protect the water resource from serious harm. A water shortage usually occurs due to drought.

Water shortage emergency means that situation when the powers which can be exercised under subsection 40B-21.621, Florida Administrative Code, are not sufficient to protect the public health, safety, or welfare, or the health of animals, fish or aquatic life, or a public water supply, or commercial, industrial, agricultural, recreational or other reasonable uses.

Sec. 7-42. Application of Article.

The provisions of this Article shall apply to all persons using the water resource for lawn irrigation, landscape irrigation, and related outdoor water uses such as car washing within the geographical areas determined by the District, whether from public or privately owned water utility systems, private wells, or private connections with surface water bodies.

Sec. 7-43. Amendments to Year-Round Water Conservation Measures Water Shortage Plan.

All portions of Chapter 40B-21, Florida Administrative Code dealing with lawn irrigation, landscape irrigation, and related outdoor water use, as each may be amended from time to time, are incorporated herein by reference.

Sec. 7-44. Applicability of Year-round Water Conservation Measures.

In the absence of a declaration of a water shortage or water shortage emergency within all or any part of the City of Waldo by the Governing Board or the Executive Director of the District, all lawn irrigation, landscape irrigation and related outdoor water conservation measures adopted by the District applicable to the City of Waldo, or any portion thereof, shall be subject to enforcement action pursuant to this Article. Any violation of the provisions of Chapter 40B-21, Florida Administrative Code, or any order issued pursuant thereto, shall be a violation of this Article.

Sec. 7-45. Declaration of Water Shortage; Water Shortage Emergency.

Upon declaration of a water shortage or water shortage emergency within all or any part of the City of Waldo by the Governing Board or the Executive Director of the District, all lawn irrigation, landscape irrigation and related outdoor water shortage restrictions adopted by the District applicable to the City of Waldo, or any portion thereof, shall be subject to enforcement action pursuant to this Article. Any violation of the provisions of Chapter 40B-21, Florida Administrative Code, or any order issued pursuant thereto, shall be a violation of this Article.

Sec. 7-46. Enforcement.

A. Every City of Waldo law enforcement officer shall, in connection with all other duties imposed by law, diligently enforce the provisions of this Article. In addition, the City of Waldo City Manager may delegate enforcement responsibility for this Article to agencies and departments of the City of Waldo government, in accordance with state and local law.

B. Violation of any provision of this Article shall be subject to the following penalties:

First violation:	Verbal warning
Second violation:	Written warning
Third violation:	\$25.00
Fourth violation:	\$50.00
Fifth and subsequent violations:	Fine not to exceed \$500 and/or imprisonment in the County jail not to exceed 60 days

- C. Each day in violation of this Article shall constitute a separate offense. When a water shortage declaration is not in effect, and during the initial stages of a Water Shortage or Water Shortage Emergency, enforcement officials may provide violators with no more than one written warning. The City of Waldo, in addition to the criminal sanctions contained herein, may take any other appropriate legal action, including but not limited to emergency injunctive action, to enforce the provisions of this Article.

Sec. 7-47. Water Users to Accept Provisions of Article.

No water service shall be furnished to any person by a public or private utility unless such person agrees to accept all the provisions of this Article. The acceptance of water service shall be in itself the acceptance of the provisions thereof.

[History: Ord. 2014-02]

Section 7-48 through 7-59 reserved.

ARTICLE 4. ELECTRIC FRANCHISE

Sec. 7-60. Grant of Franchise.

There is hereby granted to Florida Power & Light Company, its successors and assigns (hereinafter called the "Grantee"), for the period of 30 years from the effective date hereof, the nonexclusive right, privilege and franchise (hereinafter called "franchise") to construct, operate and maintain in, under, upon, along, over and across the present and future roads, streets, alleys, bridges, easements, rights-of-way and other public places (hereinafter called "public rights-of-way") throughout all of the incorporated areas, as such incorporated areas may be constituted from time to time, of the (City of Waldo, Florida, and its successors (hereinafter called the "Grantor"), in accordance with the Grantee's customary practice with respect to construction and maintenance, electric light and power facilities, including, without limitation, conduits, poles, wires, transmission and distribution lines, and all other facilities installed in conjunction with or ancillary to all of the Grantee's operations (hereinafter called "facilities"), for the purpose of supplying electricity and other services to the Grantor and its successors, the inhabitants thereof, and persons beyond the limits thereof.

Sec. 7-61. Installation and Maintenance of Facilities.

- A. The facilities of the Grantee shall be installed, located or relocated so as to not unreasonably interfere with traffic over the public rights-of-way or with reasonable egress from and ingress to abutting property.
- B. To avoid conflicts with traffic, the location or relocation of all facilities shall be made as representatives of the Grantor may prescribe in accordance with the Grantor's reasonable rules and regulations with reference to the placing and maintaining in, under, upon, along, over and across said public rights-of-way; provided, however, that such rules or regulations (a) shall not prohibit the exercise of the Grantee's right to use said public rights-of-way for reasons other than unreasonable interference with motor vehicular traffic, (b) shall not unreasonably interfere with the Grantee's ability to furnish reasonably sufficient, adequate and efficient electric service to all of its customers, and (c) shall not require the relocation of any of the Grantee's facilities installed before or after the effective date hereof in public rights-of-way unless or until widening or otherwise changing the configuration of the paved portion of any public right-of-way used by motor vehicles causes such installed facilities to unreasonably interfere with motor vehicular traffic. Such rules and regulations shall recognize that above-grade facilities of the Grantee installed after the effective date hereof should be installed near the outer boundaries of the public rights-of-way to the extent possible.
- C. When any portion of a public right-of-way is excavated by the Grantee in the location or relocation of any of its facilities, the portion of the public right-of-way so excavated shall

within a reasonable time be replaced by the Grantee at its expense and in as good condition as it was at the time of such excavation. The Grantor shall not be liable to the Grantee for any cost or expense in connection with any relocation of the Grantee's facilities required under this subsection, except, however, the Grantee shall be entitled to reimbursement of its costs from others and as may be provided by law.

Sec. 7-62. Liability.

The Grantor shall in no way be liable or responsible for any accident or damage that may occur in the construction, operation or maintenance by the Grantee of its facilities hereunder, and the acceptance of this franchise shall be deemed an agreement on the part of the Grantee to indemnify the Grantor and hold it harmless against any and all liability, loss, cost, damage or expense which may accrue to the Grantor by reason of the negligence, default or misconduct of the Grantee in the construction, operation or maintenance of its facilities hereunder.

Sec. 7-63. Rates.

All rates and rules and regulations established by the Grantee from time to time shall be subject to such regulation as may be provided by law.

Sec. 7-64. Consideration.

- A. As a consideration for this franchise, the Grantee shall pay to the Grantor, commencing 90 days after the effective date hereof, and each month thereafter for the remainder of the term of this franchise, an amount which added to the amount of all licenses, excises, fees, charges and other impositions of any kind whatsoever (except ad valorem property taxes and non-ad valorem tax assessments on property) levied or imposed by the Grantor against the Grantee's property, business or operations and those of its subsidiaries during the Grantee's monthly billing period ending 60 days prior to each such payment will equal 6.0 percent of the Grantee's billed revenues, less actual write-offs, from the sale of electrical energy to residential, commercial and industrial customers (as such customers are defined by FPL's tariff) within the incorporated areas of the Grantor for the monthly billing period ending 60 days prior to each such payment, and in no event shall payment for the rights and privileges granted herein exceed 6.0 percent of such revenues for any monthly billing period of the Grantee.

- B. The Grantor understands and agrees that such revenues as described in the preceding paragraph are limited, as in the existing franchise Ordinance No. 1-88, to the precise revenues described therein, and that such revenues do not include, by way of example and not limitation: (a) revenues from the sale of electrical energy for Public Street and Highway Lighting (service for lighting public ways and areas); (b) revenues from Other Sales to Public Authorities (service with eligibility restricted to governmental entities); (c) revenues from Sales to Railroads and Railways (service supplied for propulsion of

electric transit vehicles); (d) revenues from Sales for Resale (service to other utilities for resale purposes); (e) franchise fees; (f) Late Payment Charges; (g) Field Collection Charges; (h) other service charges.

- C. As a further consideration, during the term of this franchise or any extension thereof, the Grantor agrees: (a) not to engage in the distribution and/or sale, in competition with the Grantee, of electric capacity and/or electric energy to any ultimate consumer of electric utility service (herein called a "retail customer") or to any electrical distribution system established solely to serve any retail customer formerly served by the Grantee, (b) not to participate in any proceeding or contractual arrangement, the purpose or terms of which would be to obligate the Grantee to transmit and/or distribute, electric capacity and/or electric energy from any third party(ies) to any other retail customer's facility(ies), and (c) not to seek to have the Grantee transmit and/or distribute electric capacity and/or electric energy generated by or on behalf of the Grantor at one location to the Grantor's facility(ies) at any other location(s). Nothing specified herein shall prohibit the Grantor from engaging with other utilities or persons in wholesale transactions which are subject to the provisions of the Federal Power Act.
- D. Grantee shall pay Grantor the amount due under this section on a monthly basis. The monthly payment shall include a statement in substantially the following format:

	Current Month	Prior Year to Date
Revenue		
Residential	\$	\$
Commercial	\$	\$
Industrial	\$	\$
Total Revenue	\$	\$
Revenue Adjustments		
Less Writeoffs	\$	\$
Net Revenue	\$	\$
Payment Calculation		
6% of Net Revenue	\$	\$
Less fees, taxes, etc.	\$	\$
Payment Due	\$	\$

Sec. 7-65. Provision of Electric Services by Others.

- A. Nothing herein shall prohibit the Grantor, if permitted by law, (i) from purchasing electric capacity and/or electric energy from any other person, or (ii) from seeking to have the Grantee transmit and/or distribute to any facility(ies) of the Grantor electric capacity and/or electric energy purchased by the Grantor from any other person;

provided, however, that before the Grantor elects to purchase electric capacity and/or electric energy from any other person, the Grantor shall notify the Grantee. Such notice shall include a summary of the specific rates, terms and conditions which have been offered by the other person and identify the Grantor's facilities to be served under the offer. The Grantee shall thereafter have 90 days to evaluate the offer and, if the Grantee offers rates, terms and conditions which are equal to or better than those offered by the other person, the Grantor shall be obligated to continue to purchase from the Grantee electric capacity and/or electric energy to serve the previously-identified facilities of the Grantor for a term no shorter than that offered by the other person. If the Grantee does not agree to rates, terms and conditions which equal or better the other person's offer, all of the terms and conditions of this franchise shall remain in effect.

- B. If the Grantor grants a right, privilege or franchise to any other person or otherwise enables any other such person to construct, operate or maintain electric light and power facilities within any part of the incorporated areas of the Grantor in which the Grantee may lawfully serve or compete on terms and conditions which the Grantee determines are more favorable than the terms and conditions contained herein, the Grantee may at any time thereafter terminate this franchise if such terms and conditions are not remedied within the time period provided hereafter.
- C. The Grantee shall give the Grantor at least 60 days advance written notice of its intent to terminate. Such notice shall, without prejudice to any of the rights reserved for the Grantee herein, advise the Grantor of such terms and conditions that it considers more favorable. The Grantor shall then have 60 days in which to correct or otherwise remedy the terms and conditions complained of by the Grantee. If the Grantee determines that such terms or conditions are not remedied by the Grantor within said time period, the Grantee may terminate this franchise agreement by delivering written notice to the Grantor's Clerk and termination shall be effective on the date of delivery of such notice.
- D. If as a direct or indirect consequence of any legislative, regulatory or other action by the United States of America or the State of Florida (or any department, agency, authority, instrumentality or political subdivision of either of them) any person is permitted to provide electric service within the incorporated areas of the Grantor to a customer then being served by the Grantee, or to any new applicant for electric service within any part of the incorporated areas of the Grantor in which the Grantee may lawfully serve, and the Grantee determines that its obligations hereunder, or otherwise resulting from this franchise in respect to rates and service, place it at a competitive disadvantage with respect to such other person, the Grantee may, at any time after the taking of such action, terminate this franchise if such competitive disadvantage is not remedied within the time period provided hereafter. The Grantee shall give the Grantor at least 90 days advance written notice of its intent to terminate. Such notice shall, without prejudice to any of the rights reserved for the Grantee herein, advise the Grantor of the consequences of such action which resulted in the competitive disadvantage. The Grantor shall then have 90

days in which to correct or otherwise remedy the competitive disadvantage. If such competitive disadvantage is not remedied by the Grantor within said time period, the Grantee may terminate this franchise agreement by delivering written notice to the Grantor's Clerk and termination shall take effect on the date of delivery of such notice.

Sec. 7-66. Forfeiture.

- A. Failure on the part of the Grantee to comply in any substantial respect with any of the provisions of this franchise shall be grounds for forfeiture, but no such forfeiture shall take effect if the reasonableness or propriety thereof is protested by the Grantee until there is final determination (after the expiration or exhaustion of all rights of appeal) by a court of competent jurisdiction that the Grantee has failed to comply in a substantial respect with any of the provisions of this franchise, and the Grantee shall have six months after such final determination to make good the default before a forfeiture shall result with the right of the Grantor at its discretion to grant such additional time to the Grantee for compliance as necessities in the case require.
- B. Failure on the part of the Grantor to comply in substantial respect with any of the provisions of this ordinance, including but not limited to: (a) denying the Grantee use of public rights-of-way for reasons other than unreasonable interference with motor vehicular traffic; (b) imposing conditions for use of public rights-of-way contrary to Florida law or the terms and conditions of this franchise; (c) unreasonable delay in issuing the Grantee a use permit, if any, to construct its facilities in public rights-of-way, shall constitute breach of this franchise and entitle the Grantee to withhold all or part of the payments provided for in Section 5 7-64 hereof until such time as a use permit is issued or a court of competent jurisdiction has reached a final determination in the matter.

Sec. 7-67. Audit.

- A. The Grantor may, upon reasonable notice and within 90 days after each anniversary date of this franchise, at the Grantor's expense, examine the records of the Grantee relating to the calculation of the franchise payment for the year preceding such anniversary date. Such examination shall be during normal business hours at the Grantee's office where such records are maintained.
- B. Records not prepared by the Grantee in the ordinary course of business may be provided at the Grantor's expense and as the Grantor and the Grantee may agree in writing.
- C. Information identifying the Grantee's customers by name or their electric consumption shall not be taken from the Grantee's premises.

- D. Such audit shall be impartial and all audit findings, whether they decrease or increase payment to the Grantor, shall be reported to the Grantee. The Grantor's right to examine the records of the Grantee in accordance with this Section shall not be conducted by any third party employed by the Grantor whose fee, in whole or part, for conducting such audit is contingent on findings of the audit.
- E. Grantor waives, settles and bars all claims relating in any way to the amounts paid by the Grantee under the Current Franchise Agreement embodied in Ordinance No. 1-88.

Sec. 7-68. Miscellaneous.

- A. The provisions of this franchise are interdependent upon one another, and if any of the provisions of this franchise are found or adjudged to be invalid, illegal, void or of no effect, the entire franchise shall be null and void and of no force or effect.
- B. As used herein "person" means an individual, a partnership, a corporation, a business trust, a joint stock company, a trust, an incorporated association, a joint venture, a governmental authority or any other entity of whatever nature.
- C. The Grantor recognizes and agrees that nothing in this franchise agreement constitutes or shall be deemed to constitute a waiver of the Grantee's delegated sovereign right of condemnation and that the Grantee, in its sole discretion, may exercise such right.
- D. Ordinance No. 1-88, passed and adopted April 11, 1988 and all other ordinances and parts of ordinances and all resolutions and parts of resolutions in conflict herewith, are hereby repealed.
- E. As a condition precedent to the taking effect of this ordinance, the Grantee shall file its acceptance hereof with the Grantor's Clerk within 30 days of adoption of this ordinance. The effective date of this ordinance shall be the date upon which the Grantee files such acceptance.

[History: Ord. 2015-04]