

FORT WALTON BEACH CODE

**CHAPTER 10  
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**CHAPTER 10  
PUBLIC WORKS AND UTILITIES**

**10.00 GENERAL**

**10.00.01 Violations:** Unless stated otherwise, violations of this title are punishable as provided in section 1.05 of the Code.

**10.00.02 Authority to Establish Fees:** The council shall establish all fees, rates, and charges applicable in this title by resolution in the general fee schedule.

**10.10 CEMETERIES**

**10.10.01 Beal Memorial Cemetery:** The Beal Memorial Cemetery is operated by the city. A cemetery supervisor shall be employed, and he/she shall be responsible to the director of public works for the operation and maintenance of the cemetery and for the enforcement of this chapter.

**10.10.02 Use of Roadways, Entrances:** No person shall use the roadways of Beal Memorial Cemetery as public thoroughfares for passage through the cemetery or for any other purposes, other than for attendance at funerals, memorial occasions, visits to graves or cemetery lots, or other similar uses and purposes, including official business. No person shall climb over, go through or go over any wall, fence or hedge in the cemetery; trespass in any manner upon cemetery property; or enter or leave the cemetery at any place other than at regularly established gateways or entrances and at such times as are established by the city manager by administrative policy for visitation. Persons within the cemetery grounds shall use only the walkways, avenues, and roads and shall not walk, drive, or ride upon the lots, plots, and spaces.

**10.10.03 Burial Permits:** It shall be the duty of the family or friends of any person about to be buried in the cemetery to furnish a proper burial permit prior to burial and give the place of birth, age and residence at the time of death, sex and date of death of the deceased, so far as is known.

**10.10.04 Notice of Interment:** Notice to the cemetery sexton [supervisor] of an interment must be accomplished by directions as to the lot and the particular spot on the lot where the grave is to be opened and such notice must be presented within eight working hours of the interment.

**10.10.05 Work Orders:** No person shall erect or place any memorial marker or do any work in the cemetery without first presenting a written order from the lot owner to the cemetery supervisor and obtaining written permission from the cemetery supervisor for the work contemplated. All monument contractors must contact the cemetery supervisor 48 hours before setting any monument. All monuments must be approved by the cemetery supervisor.

**10.10.06 Waste Materials:** All soil removed by contractors excavating graves shall be placed on a cover adjacent to the opened grave or moved to a location specified by the cemetery supervisor. No soil will be allowed on grassed areas. Upon closure, graves shall be tamped to original compaction and made level with the existing ground around the grave.

**10.10.07 Unsightly Debris:** The cemetery sexton [supervisor] and/or any person employed by him and acting under his or her direction shall have the right to go upon any lot and to cut down or remove any and all weeds, tall grasses, underbrush, trash, etc., or to proceed in any manner as deemed necessary to put the lot or cemetery premises in good condition and to render the cemetery premises sightly.

**10.10.08 Lot Enclosures:** No lot owner shall erect any fence, wall or curbing around any lot or place

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thereon any cement or stone slab or any walkway leading to or from such lot.

### **10.10.09 Markers and Tombstones**

**10.10.091 General Requirements:** All temporary markers will be removed at the time a permanent stone or monument has been placed. No marker, tombstone or monument shall be erected on grave space until the lot is paid for in full.

**10.10.092 Upright Markers or Tombstones:** Upright markers or tombstones may be erected in that portion of Beal Memorial Cemetery designated for tombstones, but such markers shall not exceed three feet in height or exceed 12 inches in width or cover more than two-thirds of the width of the grave space (single lot is 42 inches wide, marker can be no more than 28 inches long; double lot is 84 inches wide, marker can be no more than 56 inches long; and triple lot is 126 inches wide, marker can be no more than 84 inches long).

**10.10.093 Flat Markers:** In the section of the cemetery wherein only the installation of grass level markers is permitted, such markers shall not exceed 12 inches in width and 24 inches in length, and shall be installed with the top surface flush with the ground level. Only one marker is permitted per grave space in the flat marker sections of the cemetery.

**10.10.10 Permanent Maintenance Fund:** Twenty percent of the purchase money for all Beal Memorial Cemetery lots sold shall be set aside to establish a permanent maintenance fund.

**10.10.11 Vaults:** A cement, steel or equivalent strength vault shall be provided, at the cost of the lot owner, for all burials except newborn infants and cremations. Such vaults shall be of such specifications and weight as to prevent retention of water and cave-ins in the grave space.

**10.10.12 Care of Grave Space:** The city shall not be responsible for any damage caused during normal maintenance activities. The following rules for the care of grave space shall be enforced by the cemetery supervisor:

- (1) Flowers from burial services can be removed by the cemetery supervisor or his or her/her agent after three days.
- (2) One portable container or one potted plant per grave is permitted.
- (3) Easels and stands are not permitted.
- (4) Permanent plantings are not permitted.
- (5) Faded flowers, plastic, potted or fresh, can be removed from the grave space and discarded. The containers shall be held for a reasonable time (14 days) at the cemetery administrative office.
- (6) The city does not recommend and will not be responsible for pictures placed on flat grave markers.

**10.10.13 Pauper Burials:** When it is made to appear to the city, by proof submitted to the city by the cemetery sexton, that a city resident has died and does not have an estate sufficient to pay the purchase price of a grave space in the Beal Memorial Cemetery, and that the nearest relative or representative of such deceased person desires to have the deceased interred in the cemetery, any four members of the council may authorize burial space for such deceased person. Strangers without funds who die in the city,

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and paupers who die in the city, may be accorded the privilege granted in this section.

**10.10.14 Reservation of Grave Space:** The cemetery sexton may reserve grave space, at the request of a prospective purchaser, for a period of ten days without a formal agreement or payment of the price of the lot. A record shall be kept of any such reservation made. At the expiration of the time period, a formal agreement to purchase such space must be signed or the space paid for. In the absence of a formal agreement or payment for the space, the space may be sold to any purchaser.

**10.10.15 Cost, Payment for Lots, Crypts, Niches:** Each cemetery lot, mausoleum crypt or cremains niche must be paid for prior to interment. Any cemetery lot, mausoleum crypt or cremains niche shall be paid for in full or by an agreement to purchase the same in installments which shall be executed with the city. Such agreements shall be prepared by the city manager and shall designate the type of interment, specific location, and price and terms. A minimum down payment of 20 percent, the number of months of the agreement, the interest rate of nine and one-half percent (simple interest), and the payment amount shall be specified in the installment purchase agreement. "Immediate family," as used in this section, means a spouse, parent, child, grandparent, brother, sister, mother-in-law or father-in-law.

**10.10.15.1 Exemption For Certain Persons:** Any sworn police officer or certified firefighter employed by the city at the time of death and any active duty, Reserve or National Guard member of the United States Armed Forces (Army, Navy, Air Force, Marine Corps, Coast Guard) whose residence at the time of death is within the city limits, who has been killed in the line of duty is eligible for a city cemetery plot or wall niche at no cost. Prior to the commencement of interment, the city shall verify the eligibility of any person whose remains are to be interred pursuant to this policy.

The city reserves the right to determine which city cemetery plot(s) or wall niche(s) are available for use by eligible persons and to assign a plot or niche.

### **10.10.16 Multiple Interments**

**10.10.161 Multiple Cremation Interments:** Multiple cremation interments shall be permitted within a single grave space up to a maximum of five. The lot cost for multiple burials of this type (up to five) shall be the per lot cost shown for one lot. Each time an individual grave or lot of this classification is reopened to accommodate this type of multiple burial, an additional fee shall be paid.

**10.10.162 Multiple Burial Vault Interments:** Interments of one adult and one infant child, or of newborn infant children, or of children of sufficiently small stature that would permit use of a single burial vault in a grave space, shall be permitted as a single interment. Existing grave spaces shall not be reopened to accommodate additional burials. The per lot cost for this type of grave shall be as for one lot.

**10.10.163 Other Restrictions:** No other multiple interments are authorized. Monuments or markers for burials described in this section must be consistent with the overall plan of Beal Memorial Cemetery.

**10.10.17 Transfer or Exchange of Ownership:** Transfer of ownership or exchange of interment spaces within Beal Memorial Cemetery may be accomplished by the payment of a minimum charge of ten percent of the cost of the original interment space or \$25.00, whichever is greater.

**10.10.18 City's Right to Repurchase:** The city shall have the first option to repurchase cemetery space at the original purchase price, less ten percent for administrative costs. The city shall have the first option to repurchase mausoleum space and niches at 50 percent of the original purchase price.

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**10.10.19 Fee for Opening After Interment:** When any interment space is opened after interment of the deceased, a fee will be charged.

**10.10.20 Decorum Required in Cemetery:** The city shall regulate the use of the Beal Memorial Cemetery grounds, require strict decorum to be observed at all times, and prohibit bicycles and motorcycles, except such as may be in attendance at funerals, on business or to visit gravesites; dogs, except seeing-eye dogs; and firearms, except by duly constituted authorities and military honor guards.

**10.10.21 Specified Sections for Religious Denominations:** Religious denominations having a church, synagogue or principal place of worship in the city, which denominations require designation of separate burial spaces to accommodate religious requirements of isolation, may apply for reservation of a section of the Beal Memorial Cemetery for burial of their members. The size of these sections shall be not less than 40 feet of road frontage and not greater than 100 feet of road frontage with the depth extending to the buffer area at the south side of section 3D. The layout and lot sizes shall be determined by the city.

**10.10.211 Location Within Cemetery Designated:** The specified sections in the cemetery shall be confined to the portion of the facility, south of the south road, beginning west of section 3C and ending on the west boundary of section 3D. Once the area (section 3D) is completely reserved, no other sections of the cemetery shall be available to religious institutions as specified burial sections.

**10.10.212 Application for Specific Section:** Religious organization requesting a specified burial section shall make application with the cemetery sexton [supervisor]. The city manager shall review the application and, if necessary, conduct the necessary research to ensure compliance with the intent of this section. The city manager is hereby authorized to approve or deny requests. If a request is denied, the religious organization may appeal the denial to the council.

**10.10.213 Other Regulations:** All appropriate sections of this title shall apply to specified burial sections.

**10.10.22 Disinterment:** No disinterment shall be made except on express permission of the cemetery supervisor. The city will assume no liability for damage to any casket, burial case, vault, or urn, incurred in making the disinterment. There shall be a fee for this service, to include contractor cost.

**10.11.01 Brooks Cemetery:** The Brooks Cemetery is operated by the city. The Brooks Cemetery shall be subject to the provisions of this chapter regarding the Beal Memorial Cemetery except as modified, by this chapter.

**10.11.02 Subdivision:** The city council shall have sole authority to subdivide the cemetery into blocks, lots, grave spaces, and streets and to determine the dimensions and locations of each. Old Section is the western 200.4 foot X 230.0 foot parcel as depicted on Drawing 15-24, dated May 3, 2000, entitled "Brooks Cemetery". Only descendants/relatives of family members currently interred in the Old Section can be buried in the Old Section of the cemetery. New Section is the eastern 99.4 foot X 230.0 foot parcel as depicted in Drawing 15-24, dated May 3, 2000, entitled "Brooks Cemetery".

**10.11.03 Lot Enclosures:** Plot enclosures, fences, curbing, coping, slabs and ornamental gravel are permitted in the Old Section only. Care and maintenance of said enclosures is the total responsibility of the plot owners. If such existing enclosures or curbing are not properly maintained, they may be removed at the direction of the public works director or a designee.

**10.11.04 Markers and Tombstones:** Family (private) mausoleums are permitted in the Old Section only.

## 10.20 COMMUNICATIONS IN RIGHT-OF-WAY AREAS

**10.20.01 Title:** This title shall be known and may be cited as the Fort Walton Beach Communications Rights-of-Way Ordinance.

**10.20.02 Intent, Purpose:** It is the intent of the city to promote the public health, safety and general welfare by: providing for the placement or maintenance of communications facilities in the public rights-of-way within the city; adopting and administering reasonable rules and regulations not inconsistent with state and federal law, including § 337.401, F.S. (2000), as it may be amended, the city's home rule authority, and in accordance with the provisions of the Federal Telecommunications Act of 1996 and other federal and state law; establishing reasonable rules and regulations necessary to manage the placement or maintenance of communications facilities in the public rights-of-way by all communications services providers; and minimizing disruption to the public rights-of-way. In regulating its public rights-of-way, the city shall be governed by and shall comply with all applicable federal and state laws.

**10.20.03 Definitions:** For purposes of this chapter, the following terms, phrases, words and their derivations shall have the meanings given.

**Abandonment.** The permanent cessation of all uses of a communications facility; provided that this term shall not include cessation of all use of a facility within a physical structure where the physical structure continues to be used. By way of example, and not limitation, cessation of all use of a cable within a conduit, where the conduit continues to be used, shall not be "abandonment" of a facility in public rights-of-way.

**City.** Fort Walton Beach, Florida, a municipality incorporated under the laws of the State of Florida.

**Communications services.** The transmission, conveyance or routing of voice, data, audio, video, or any other information or signals to a point, or between or among points, by or through any electronic, radio, satellite, cable, optical, microwave, or other medium or method now in existence or hereafter devised, regardless of the protocol used for such transmission or conveyance. Notwithstanding the foregoing, for purposes of this chapter "cable service", as defined in F.S. § 202.11(2), as it may be amended, is not included in the definition of "communications services," and cable service providers may be subject to other ordinances of the city.

**Communications services provider.** Any person including a municipality or county providing communications services to the general public through the placement or maintenance of a communications facility in public rights-of-way. "Communications services provider" shall also include any person including a municipality or county that places or maintains a communications facility in public rights-of-way but does not provide communications services.

**Communications facility or facility or system.** Any permanent or temporary plant, equipment and property, including but not limited to cables, wires, conduits, ducts, fiber optics, poles, antennas, converters, splice boxes, cabinets, hand holes, manholes, vaults, drains, surface location markers, appurtenances, and other equipment or pathway placed or maintained or to be placed or maintained in the public rights-of-way of the city and used or capable of being used to transmit, convey, route, receive, distribute, provide or offer communications services.

**Emergency.** A condition that affects the public's health, safety or welfare, which includes an unplanned out-of-service condition of a pre-existing service.

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**FCC.** The Federal Communications Commission.

**In public rights-of-way or in the public rights-of-way.** In, on, over, under or across the public rights-of-way.

**Ordinance [chapter].** Ordinance 1459 [this chapter].

**Person.** Any individual, children, firm, association, joint venture, partnership, estate, trust, business trust, syndicate, fiduciary, corporation, organization or legal entity of any kind, successor, assignee, transferee, personal representative, and all other groups or combinations, and shall include the city to the extent the city acts as a communications services provider.

**Place or maintain or placement or maintenance or placing or maintaining.** To erect, construct, install, maintain, place, repair, extend, expand, remove, occupy, locate or relocate. A communications services provider that owns or exercises physical control over communications facilities in public rights-of-way, such as the physical control to maintain and repair, is "placing or maintaining" the facilities. A person providing service only through resale or only through use of a third party's unbundled network elements is not "placing or maintaining" the communications facilities through which such service is provided. The transmission and receipt of radiofrequency signals through the airspace of the public rights-of-way does not constitute "placing or maintaining" facilities in the public rights-of-way.

**Public rights-of-way.** A public right-of-way, public utility easement, highway, street, bridge, tunnel or alley for which the city is the authority that has jurisdiction and control and may lawfully grant access to pursuant to applicable law, and includes the surface, the air space over the surface and the area below the surface. "Public rights-of-way" shall not include private property. "Public rights-of-way" shall not include any real or personal city property except as described above and shall not include city buildings, fixtures, poles, conduits, facilities or other structures or improvements, regardless of whether they are situated in the public rights-of-way.

**Registrant.** A communications services provider that has registered with the city in accordance with the provisions of this chapter.

**Registration or register.** The process described in this chapter whereby a communications services provider provides certain information to the city.

**Stealth technology.** Communications facilities designed in such a way that the facilities and their various component parts (antennas, cables, wires, lattice support) are camouflaged and compatible with the structure upon which they are mounted.

**10.21.01 Registration Required:** A communications services provider that desires to place or maintain a communications facility in public rights-of-way in the city shall first register with the city in accordance with this chapter. Subject to the terms and conditions prescribed in this chapter, a registrant may place or maintain a communications facility in public rights-of-way.

**10.21.02 Legal Effect of Registration:** A registration shall not convey any title, equitable or legal, to the registrant in the public rights-of-way. Registration under this chapter governs only the placement or maintenance of communications facilities in public rights-of-way. Other chapters, codes or regulations may apply to the placement or maintenance in the public rights-of-way of facilities that are not communications facilities. Registration does not excuse a communications services provider from obtaining appropriate access or pole attachment agreements before locating its facilities on the city or another person's facilities. Registration does not excuse a communications services provider from

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complying with all applicable city ordinances, codes or regulations.

**10.21.03 Application for Registration:** Each communications services provider that desires to place or maintain a communications facility in public rights-of-way in the city shall file a single registration with the city on a registration form that shall include following information:

- (1) Name of the applicant;
- (2) Name, address and telephone number of the applicant's primary contact person in connection with the registration, and the person to contact in case of an emergency; the registrant shall ensure that the city always has current contact information.
- (3) For registrations submitted prior to October 1, 2001, the applicant shall state whether it provides local service or toll service or both;
- (4) Evidence of the insurance coverage required under this chapter and acknowledgment that registrant has received and reviewed a copy of this chapter, which acknowledgment shall not be deemed an agreement; and
- (5) The number of the applicant's certificate of authorization or license to provide communications services issued by the Florida Public Service Commission, the Federal Communications Commission, or other federal or state authority, if any.
- (6) For an applicant that does not provide a Florida Public Service Commission certificate of authorization number, if the applicant is a corporation, proof of authority to do business in the State of Florida, such as the number of the certificate from or filing with the Florida Department of State.

**10.21.04 City Manager's Review:** The city manager shall review the registration information submitted by the applicant. If the applicant submits information in accordance with the registration form, the registration shall be effective and the city shall notify the applicant of the effectiveness of registration in writing. If the city determines that the information has not been submitted in accordance with the form, the city shall notify the applicant of the non-effectiveness of registration, and reasons for the non-effectiveness, in writing. The city shall so reply to an applicant within 30 days after receipt of registration information from the applicant. Non-effectiveness of registration shall not preclude an applicant from filing subsequent applications for registration under the provisions of this chapter.

**10.21.05 Registration Cancellation:** A registrant may cancel a registration upon written notice to the city stating that it will no longer place or maintain any communications facilities in public rights-of-way within the city and will no longer need to obtain permits to perform work in public rights-of-way. A registrant cannot cancel a registration if the registrant continues to place or maintain any communications facilities in public rights-of-way.

**10.21.06 Limitations of Registration:** Registration does not in and of itself establish a right to place or maintain or priority for the placement or maintenance of a communications facility in public rights-of-way within the city but shall establish for the registrant a right to apply for a permit. Registrations are expressly subject to any future amendment to or replacement of this chapter and further subject to any additional city ordinances, as well as any state or federal laws that may be enacted.

**10.21.07 Registration Renewal:** A registrant shall renew its registration with the city every two years. If no information in the then-existing registration has changed, the renewal may state that no information

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has changed. Failure to renew a registration may result in the city restricting the issuance of additional permits until the communications services provider has complied with the registration requirements.

**10.21.08 Permit Required:** In accordance with applicable city ordinances, codes or regulations, a permit shall be required of a communications services provider that desires to place or maintain a communications facility in public rights-of-way. An effective registration shall be a condition of obtaining a permit. Notwithstanding an effective registration, permitting requirements shall apply. A permit may be obtained by or on behalf of a registrant having an effective registration if all permitting requirements are met.

**10.22.01 Notice of Transfer, Sale or Assignment:** If a registrant transfers, sells or assigns its assets located in public rights-of-way incident to a transfer, sale or assignment of the registrant's assets, the transferee, buyer or assignee shall be obligated to comply with the terms of this chapter. Written notice of any such transfer, sale or assignment shall be provided by such registrant to the city 30 days prior to the effective date of the transfer, sale or assignment. If the transferee, buyer or assignee is a current registrant, then the transferee, buyer or assignee is not required to re-register. If the transferee, buyer or assignee is not a current registrant, then the transferee, buyer or assignee shall register as provided in this chapter within 30 days of the transfer, sale or assignment. If permit applications are pending in the registrant's name, the transferee, buyer or assignee shall notify the city manager or a designee that the transferee, buyer or assignee is the new applicant.

**10.22.02 Compliance with Laws Required:** A registrant shall at all times comply with and abide by all applicable provisions of the state and federal law and city ordinances, codes and regulations in placing or maintaining a communications facility in public rights-of-way.

**10.22.03 Permit Required Prior to Commencement:** A registrant shall not commence to place or maintain a communications facility in public rights-of-way until all applicable permits, if any, have been issued by the city or other appropriate authority, except in the case of an emergency. Registrant shall provide prompt notice to the city of the placement or maintenance of a communications facility in public rights-of-way in the event of an emergency and shall be required to obtain an after-the-fact permit if a permit would have originally been required to perform the work undertaken in public rights-of-way in connection with the emergency. Registrant acknowledges that as a condition of granting such permits, the city may impose reasonable rules or regulations governing the placement or maintenance of a communications facility in public rights-of-way. Permits shall apply only to the areas of public rights-of-way specifically identified in the permit. The city may issue a blanket permit to cover certain activities, such as routine maintenance and repair activities that may otherwise require individual permits.

**10.22.04 Permit Application:** As part of the permit application to place a new or replace an existing communications facility in public rights-of-way, the registrant shall provide all documentation required by the permit application shall provide the following:

- (1) Engineering drawings of facilities located in the public rights-of-way, including, but not limited to the following:
  - (a) Desired location of the proposed facilities including dimensions to the right-of-way line or back of curb;
  - (b) Description of the facilities to be installed;
  - (c) Approximate size of the facilities;

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- (d) Plans must show that the proposed work is within the limits of the right-of-way or easement;
  - (e) All existing utilities, underground or aboveground, must be located and drawn on the plan in the area of the proposed work;
  - (f) For directional boring installations, a cross-section drawing, drawn to scale, at every location involving a main utility line crossing (such as intersections);
  - (g) Upon completion of construction of the facilities, provide to the city at no cost revised as-built plans based upon actual installation, in a hard copy format or an electronic format specified by the city (provided such electronic format is maintained by the registrant); and
  - (h) Any other information deemed necessary by the city.
- (2) A description of the manner in which the facility will be installed (i.e. anticipated construction methods or techniques);
  - (3) A maintenance of traffic plan for any disruption of the public rights-of-way;
  - (4) Information demonstrating the ability of the public rights-of-way to accommodate the proposed facility;
  - (5) If appropriate given the facility proposed, an estimate of the cost of restoration to the public rights-of-way;
  - (6) The timetable for construction of the project or each phase thereof, and the areas of the city which will be affected;
  - (7) Such additional information as the city finds reasonably necessary with respect to the placement or maintenance of the communications facility that is the subject of the permit application to review such permit application; and
  - (8) A pre-construction conference shall be required at the discretion of the public works director.

**10.22.05 Discretion to Prohibit:** To the extent not otherwise prohibited by state or federal law, the city shall have the power to prohibit or limit the placement of new or additional communications facilities within a particular area of public rights-of-way.

**10.22.06 Noninterference with Others:** All communications facilities shall be placed or maintained so as not to unreasonably interfere, as determined at the sole discretion of the city, with the use of the public rights-of-way by the public and by the city for installation of its utilities, with the rights and convenience of property owners who adjoin any of the public rights-of-way. The use of trenchless technology (i.e., directional bore method), with the proper subsurface engineering, for the installation of Facilities in the public rights-of-way as well as joint trenching or the co-location of facilities in existing conduit is strongly encouraged, and should be employed wherever feasible. The city may promulgate reasonable rules and regulations concerning the placement or maintenance of a communications facility in public rights-of-way consistent with this chapter and other applicable law.

**10.22.07 Safety Practices:** All safety practices required by applicable law or accepted industry practices

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and standards shall be used during the placement or maintenance of communications facilities.

**10.22.08 Restoration of Right-of-Way:** After the completion of any placement or maintenance of a communications facility in public rights-of-way or each phase thereof, a registrant shall, at its own expense, restore the public rights-of-way to its original condition before such work to the satisfaction of the city. If the registrant fails to make such restoration within 14 calendar days, or such longer period of time as may be reasonably required under the circumstances, following the completion of such placement or maintenance, the city may perform restoration and charge the costs of the restoration against the registrant in accordance with § 337.402, F. S., as it may be amended. For 12 months following the original completion of the work, the registrant shall guarantee its restoration work and shall correct any restoration work that does not satisfy the requirements of this chapter at its own expense.

**10.22.09 Removal, Relocation of Facility:** Removal or relocation at the direction of the city of a registrant's communications facility in public rights-of-way shall be governed by the provisions of §§ 337.403 and 337.404, F.S., as they may be amended.

**10.22.10 Permit Authority:** A permit from the city constitutes authorization to undertake only certain activities in public rights-of-way in accordance with this chapter, and does not create a property right or grant authority to impinge upon the rights of others who may have an interest in the public rights-of-way.

**10.22.11 Industry Standards Apply:** A registrant shall maintain its communications facility in public rights-of-way in a manner consistent with accepted industry practice and applicable law and to the satisfaction of the city.

**10.22.12 Compliance with Chapter 556:** In connection with excavation in the public rights-of-way, a registrant shall, where applicable, comply with the Underground Facility Damage Prevention and Safety Act set forth in Chapter 556, F.S., as it may be amended.

**10.22.13 Due Care & Skill:** Registrant shall use and exercise due caution, care and skill in performing work in the public rights-of-way and shall take all reasonable steps to safeguard work site areas and the general public.

**10.22.14 Coordination with Other Work:** Upon request of the city, and as notified by the city of the other work, construction, installation or repairs referenced below, a registrant may be required to coordinate placement or maintenance activities under a permit with any other work, construction, installation or repairs that may be occurring or scheduled to occur within a reasonable time frame in the subject public rights-of-way, and registrant may be required to reasonably alter its placement or maintenance schedule as necessary so as to minimize disruptions and disturbance in the public rights-of-way.

**10.22.15 Care Required in Placing, Maintaining Facilities:** A registrant shall not place or maintain its communications facilities so as to interfere with, displace, damage or destroy any facilities, including but not limited to, sewers, gas or water mains, storm drains, pipes, cables or conduits of the city or any other person's facilities lawfully occupying the public rights-of-way of the city.

**10.22.16 No Warranty or Representations of Fitness:** The city makes no warranties or representations regarding the fitness, suitability, or availability of the city's public rights-of-way for the registrant's communications facilities and any performance of work, costs incurred or services provided by registrant shall be at registrant's sole risk. Nothing in this chapter shall affect the city's authority to add, vacate or abandon public rights-of-way, and the city makes no warranties or representations regarding the availability of any added, vacated or abandoned public rights-of-way for communications facilities.

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**10.22.17 Right to Inspect:** The city shall have the right to make such inspections of communications facilities placed or maintained in public rights-of-way as it finds necessary to ensure compliance with this chapter.

**10.22.18 Right to Require Relocation:** The city reserves the right to place and maintain, and permit to be placed or maintained, sewer, gas, water, electric, storm drainage, communications, and other types of facilities, cables or conduit, and to do, and to permit to be done, any underground and overhead installation or improvement that may be deemed necessary or proper by the city in public rights-of-way occupied by the registrant. The registrant shall be responsible for relocating (at its own expense) its facilities lying within the public rights-of-way of the city, in the event that the city determines in its sole discretion that they interfere with the installation or maintenance of the city's sewer, water, storm drainage, communications or other types of facilities. The city further reserves without limitation the right to alter, change, or cause to be changed, the grading, installation, relocation, or width of the public rights-of-way within the limits of the city and within said limits as same may from time to time be altered.

**10.22.19 Cooperation with Other Permittees:** A registrant shall, on the request of any person holding a permit issued by the city, temporarily raise, lower or otherwise adjust its communications facilities to permit the work authorized by the permit. The expense of such temporary raising, lowering or other adjustment of facilities shall be paid by any person (other than the city) requesting the same, and the registrant shall have the authority to require such payment in advance. The registrant shall be given not less than 30 days advance written notice to arrange for such temporary relocation.

**10.22.20 Wireless Facilities:** A wireless facility that is a portion of a communication facility, such as an antenna ("wireless facility(ies)"), which is attached to a legally maintained vertical structure in the public rights-of-way, such as a light pole or utility pole ("vertical structure(s)"), shall be subject to the following criteria:

- (1) Such wireless facilities may not extend more than 10 feet above the highest point of the vertical structure;
- (2) Such wireless facilities that are attached to a vertical structure located in public rights-of-way shall utilize stealth technology;
- (3) Such wireless facilities shall not have any type of lighted signal, lights, or illuminations unless required by an applicable federal, state, or local rule, regulation or law;
- (4) Such wireless facilities shall comply with any applicable Federal Communications Commission Emissions Standards;
- (5) The design, construction, and installation of such wireless facilities shall comply with any applicable local building codes;
- (6) No commercial advertising shall be allowed on such wireless facilities; and
- (7) Any accessory equipment and related housing in the public rights-of-way that are used in conjunction with such a wireless facility shall comply with any applicable local rules, regulations, ordinances, or laws governing the placement and design of such equipment.

**10.22.21 Vertical Antennae Mounts Prohibited:** Vertical structures, such as towers, whose sole purpose is to serve as a mounting device for antennae, are expressly prohibited from being placed in the public rights-of-way.

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**10.22.22 Hours of Work:** Construction work (excluding restoration work) shall be performed during normal work hours (7:00 a.m. to 4:00 p.m., Monday through Friday). Construction work after normal work hours, on weekends and national holidays, shall be on an emergency basis only.

**10.23.01 Suspension of Permits:** The city may suspend a permit for work in the public rights-of-way for one or more of the following reasons. However, the city manager shall provide notice and an opportunity to cure, which is reasonable under the circumstances, any of these violations.

- (1) Violation of permit conditions, including conditions set forth in the permit, this chapter or other applicable city ordinances, codes or regulations governing placement or maintenance of communications facilities in public rights-of-way;
- (2) Misrepresentation or fraud by registrant in a registration or permit application to the city;
- (3) Failure to properly renew or ineffectiveness of registration; or
- (4) Failure to relocate or remove facilities as may be lawfully required by the city.

**10.23.02 Suspension during Hurricanes:** In the event of a hurricane or other emergency, construction permits shall be automatically suspended for the duration of the hurricane or other emergency, the site shall be cleaned and obstructions in the rights-of-way shall be removed.

**10.24.01 Appeals** Final, written decisions of the city manager or his or her designee suspending or denying a permit, denying an application for a registration or denying an application for renewal of a registration are subject to appeal. An appeal must be filed with the city manager within 30 days of the date of the final, written decision to be appealed. Any appeal not timely filed as set forth above shall be waived. The city shall consider, or appoint a hearing officer to consider, the appeal. The hearing shall occur within 30 days of the receipt of the appeal, unless waived by the registrant, and a written decision shall be rendered within 20 days of the hearing. Upon correction of the grounds that gave rise to a suspension or denial, the suspension or denial shall be lifted.

**10.25.01 Involuntary Termination:** The city may terminate a registration if a federal or state authority suspends, denies, or revokes a registrant's certification or license to provide communications services; the registrant's placement or maintenance of a communications facility in the public rights-of-way presents a danger to the general public or other users of the public rights-of-way and the registrant fails to remedy the danger promptly after receipt of written notice; or the registrant ceases to use all of its communications facilities in public rights-of-way and has not complied with procedures for abandonment.

**10.25.02 Termination Procedures:** Prior to termination, the registrant shall be notified by the city manager with a written notice setting forth all matters pertinent to the proposed termination action, including the reason for termination, and describing the proposed action of the city with respect thereto. The registrant shall have 60 days after receipt of such notice within which to address or eliminate the reason or within which to present a plan, satisfactory to the city manager, to accomplish the same. If the plan is rejected, the city manager shall provide written notice of such rejection to the registrant and shall make a recommendation to the city council regarding a decision as to termination of registration. A decision by the city to terminate a registration may only be accomplished by an action of the city council. A registrant shall be notified by written notice of any decision by the city council to terminate its registration. Such written notice shall be sent within seven days after the decision.

**10.25.03 Actions Upon Termination Required:** In the event of termination, the former registrant shall notify the city of the assumption or anticipated assumption by another registrant of ownership of the

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registrant's communications facilities in public rights-of-way; or provide the city with an acceptable plan for disposition of its communications facilities in public rights-of-way. The registrant shall be responsible for any damage in the rights-of-way prior to termination. If a registrant fails to comply with this subsection, which determination of noncompliance is subject to appeal, the city may exercise any remedies or rights it has at law or in equity, including but not limited to taking possession of the facilities where another person has not assumed the ownership or physical control of the facilities or requiring the registrant within 90 days of the termination, or such longer period as may be agreed to by the registrant, to remove some or all of the facilities from the public rights-of-way and restore the public rights-of-way to its original condition before the removal.

In any event, a terminated registrant shall take such steps as are necessary to render safe every portion of the communications facilities remaining in the public rights-of-way of the city.

**10.25.04 Removal Limited to Terminated Registrant:** In the event of termination of a registration, this section does not authorize the city to cause the removal of communications facilities used to provide another service for which the registrant or another person who owns or exercises physical control over the facilities holds a valid certification or license with the governing federal or state agency, if required for provision of such service, and is registered with the city, if required.

**10.25.05 Existing Facilities:** A communications services provider with an existing communications facility in the public rights-of-way of the city has 60 days from the effective date of this chapter [November 27, 2001] to comply with the terms of this chapter, including, but not limited to, registration, or be in violation thereof.

**10.26.01 Insurance Required:** A registrant shall provide, pay for and maintain satisfactory to the city the types of insurance described herein. All insurance shall be from responsible companies duly authorized to do business in the state and having a rating reasonably acceptable to the city. All liability policies shall provide that the city is an additional insured as to the activities under this chapter. The required coverages must be evidenced by properly executed certificates of insurance forms. The certificates must be signed by the authorized representative of the insurance company and shall be filed and maintained with the city annually. Thirty days' advance written notice by registered, certified or regular mail or facsimile as determined by the city must be given to the city of any cancellation, intent not to renew or reduction in the policy coverages. The insurance requirements may be satisfied by evidence of self-insurance or other types of insurance acceptable to the city. The limits of coverage of insurance required shall be not less than the following:

Type	Coverage	Amount Required
Worker's Compensation		Florida Statutory Requirements
Employer's Liability		\$ 500,000 limit each accident
Comprehensive General Liability	Property damage per occurrence	1,000,000
	Property damage aggregate	2,000,000
	Personal bodily injury or death to any one person	5,000,000
	Bodily injury or death aggregate per single accident or occurrence	10,000,000
	Aggregate products and completed operations coverage	2,000,000
Automobile liability	Bodily injury and consequent death per occurrence	1,000,000

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	Bodily injury and consequent death to any one person	1,000,000
	Property damage per occurrence	500,000

**10.26.02 Indemnification:** A registrant shall, at its sole cost and expense, indemnify, hold harmless, and defend the city, its officials, boards, members, agents, and employees, against any and all claims, suits, causes of action, proceedings, judgments for damages or equitable relief, and costs and expenses incurred by the city arising out of the placement or maintenance of its communications system or facilities in public rights-of-way, regardless of whether the act or omission complained of is authorized, allowed or prohibited by this chapter, provided, however, that a registrant's obligation hereunder shall not extend to any claims caused by the negligence, gross negligence or wanton or willful acts of the city. This provision includes, but is not limited to, the city's reasonable attorneys' fees incurred in defending against any such claim, suit or proceedings. The city agrees to notify the registrant, in writing, within a reasonable time of the city receiving notice, of any issue it determines may require indemnification. Nothing in this section shall prohibit the city from participating in the defense of any litigation by its own counsel and at its own cost if in the city's reasonable belief there exists or may exist a conflict, potential conflict or appearance of a conflict. Nothing contained in this section shall be construed or interpreted: (a) as denying to either party any remedy or defense available to such party under the laws of the State of Florida; or (b) as a waiver of sovereign immunity beyond the waiver provided in § 768.28, F.S., as it may be amended. The indemnification requirements shall survive and be in effect after the termination or cancellation of a registration.

**10.26.03 Construction Bond:** Prior to issuing a permit where the work under the permit will require restoration of public rights-of-way, the city may require a construction bond to secure the restoration of the public rights-of-way. Notwithstanding the foregoing, a construction bond hereunder may only be required to the extent that the cost of the restoration exceeds the amount recoverable against the security fund. Twelve (12) months after the completion of the restoration in public rights-of-way in accordance with the bond, the registrant may eliminate the bond. However, the city may subsequently require a new bond for any subsequent work in the public rights-of-way. The construction bond shall be issued by a surety having a rating reasonably acceptable to the city; shall be subject to the approval of the city manager; and shall provide that: "For twelve (12) months after issuance of this bond, this bond may not be canceled, or allowed to lapse, until sixty (60) days after receipt by the city, by certified mail, return receipt requested, of a written notice from the issuer of the bond of intent to cancel or not to renew."

**10.26.04 Reservation of Rights:** The rights reserved by the city with respect to any construction bond established pursuant to this section are in addition to all other rights and remedies the city may have under this section or at law or equity. The rights reserved to the city under this section are in addition to all other rights of the city, whether reserved in this chapter, or authorized by other law, and no action, proceeding or exercise of a right with respect to the construction bond will affect any other right the city may have.

**10.26.05 Security Fund:** At or prior to the time a registrant receives its first permit to place or maintain a communications facility in public rights-of-way after the effective date of this chapter, the registrant may be required to file with the city, for city approval, an annual bond, cash deposit or irrevocable letter of credit in the sum of \$25,000.00 or other appropriate amount as determined by the city having as a surety a company qualified to do business in the State of Florida, and acceptable to the city manager, which shall be referred to as the "security fund." The security fund shall be maintained from such time through the earlier of: (a) transfer, sale, assignment or removal of all communications facilities in public rights-of-way; or (b) 12 months after the termination or cancellation of any registration. The security fund shall be conditioned on the full and faithful performance by the registrant of all requirements, duties and obligations imposed upon registrant by the provisions of this chapter. The security fund shall be furnished annually or as frequently as necessary to provide a continuing guarantee of the registrant's full and

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faithful performance at all times. In the event a registrant fails to perform its duties and obligations imposed upon the registrant by the provisions of this chapter, subject to section 10-35 of this chapter, there shall be recoverable, jointly and severally from the principal and surety of the security fund, any damages or loss suffered by the city as a result, including the full amount of any compensation, indemnification or cost of removal, relocation or abandonment of any facilities of the registrant in public rights-of-way, plus a reasonable allowance for attorneys fees, up to the full amount of the security fund. Notwithstanding the foregoing, the city may in its discretion not require a security fund or may accept a corporate guarantee of the registrant or its parent company.

**10.26.06 Enforcement Remedies:** A registrant's failure to comply with provisions of this chapter shall constitute a violation of this chapter and shall subject the registrant to the code enforcement. In addition, at the city's discretion, violation of this chapter may be punishable as provided in section 1.05, of this Code. Failure of the city to enforce any requirements of this chapter shall not constitute a waiver of the city's right to enforce that violation or subsequent violations of the same type or to seek appropriate enforcement remedies.

### **10.26.07 Abandonment of Facility**

**10.26.071 Notice of Abandonment:** Upon abandonment of a communications facility owned by a registrant in public rights-of-way, the registrant shall notify the city within 90 days. The city may direct the registrant by written notice to remove all or any portion of such abandoned facility at the registrant's sole expense if the city determines that the abandoned facility's presence interferes with the public health, safety or welfare, which shall include, but shall not be limited to, a determination that such facility:

- (1) Compromises safety at any time for any public rights-of-way user or during construction or maintenance in public rights-of-way.
- (2) Prevents another person from locating facilities in the area of public rights-of-way where the abandoned facility is located when other alternative locations are not reasonably available. The city may require the third person to coordinate with the registrant that owns the existing facility for joint removal and placement, where agreed to by the registrant.
- (3) Creates a maintenance condition that is disruptive to the public rights-of-way's use.

**10.26.072 Consent to Removal:** In the event that the city does not direct the removal of the abandoned facility, the registrant, by its notice of abandonment to the city, shall be deemed to consent to the alteration or removal of all or any portion of the facility by the city or another person at such third party's cost. If the registrant fails to remove all or any portion of an abandoned facility as directed by the city within a reasonable time period as may be required by the city under the circumstances, the city may perform such removal and charge the cost of the removal against the registrant.

**10.26.08 Force Majeure:** In the event a registrant's performance of or compliance with any of the provisions of this chapter is prevented by a cause or event not within the registrant's control, such inability to perform or comply shall be deemed excused and no penalties or sanctions shall be imposed as a result, provided, however, that such registrant uses all practicable means to expeditiously cure or correct any such inability to perform or comply. For purposes of this chapter, causes or events not within a registrant's control shall include, without limitation, acts of God, floods, earthquakes, landslides, hurricanes, fires and other natural disasters, acts of public enemies, riots or civil disturbances, sabotage,

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strikes and restraints imposed by order of a governmental agency or court. Causes or events within registrant's control, and thus not falling within this section, shall include, without limitation, registrant's financial inability to perform or comply, economic hardship, and misfeasance, malfeasance or nonfeasance by any of registrant's directors, officers, employees, contractors or agents.

**10.26.09 Reservation of Rights and Remedies:** The city reserves the right to amend this chapter as it shall find necessary in the lawful exercise of its police powers. This chapter shall be applicable to all communications facilities placed in the public rights-of-way on or after the effective date of this chapter and shall apply to all existing communications facilities in the public rights-of-way prior to the effective date of this chapter [November 27, 2001], to the full extent permitted by state and federal law. The adoption of this chapter is not intended to affect any rights or defenses of the city or a communications service provider under any existing franchise, license or other agreements with a communications services provider. Nothing in this chapter shall affect the remedies the city or the registrant has available under applicable law. Any person who uses the communications facilities of a registrant, other than the registrant that owns the facilities, shall not be entitled to any rights to place or maintain such facilities in excess of the rights of the registrant that places or maintains the facilities.

### 10.30 CROSS CONNECTION CONTROL

**10.30.01 Definitions:** The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

**Air gap separation.** An unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet supplying water to a tank, plumbing fixture or other device, and the flood rim of the receptacle, and shall be at least double the diameter of the supply pipe measured vertically above the flood level rim of the vessel. In no case shall the gap be less than one inch. This gap shall also be above the established 100-year flood level.

**ASSE.** American Society of Sanitary Engineering.

**Atmospheric vacuum breaker.** A backflow prevention device which is operated by atmospheric pressure in combination with the force of gravity. The unit is designed to work in a vertical plane only. The moving part consists of a poppet valve, which must be carefully sized to slide in a guided chamber and effectively shut off the reverse flow of water when a negative pressure exists.

**Auxiliary water supply.** Any water supply on or available to the premises other than the purveyor's approved public potable water supply. These auxiliary water supplies may include water from another purveyor's public potable water supply or any natural source such as a well, spring, river, harbor, etc., or used waters or industrial fluids. These waters may be polluted or contaminated or may be objectionable and constitute an unacceptable water source over which the water purveyor does not have sanitary control.

**AWWA.** American Water Works Association.

**Back pressure.** Backflow caused by a pump, elevated tank, boiler or other means that could create pressure greater than the supply pressure.

**Back siphonage.** Backflow due to a negative or subatmospheric pressure within a water system.

**Backflow.** The flow of water or other liquids, mixtures or substances into the distribution pipes of a potable supply of water from any source other than its intended source.

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**Backflow prevention device.** A device to counteract back pressure or prevent back siphonage. "Approved backflow prevention device" means a device that has met the requirements of one or more of the following standards and that has therefore been approved by the utilities director:

- (1) AWWA - C506. Standard for Backflow Prevention Devices, Reduced Pressure Principle and Double Check Valve Types
- (2) ASSE - 1001. Atmospheric Type Vacuum Breaker
- (3) ASSE - 1011. Hose Connection Vacuum Breakers
- (4) ASSE - 1020. Pressure Type Vacuum Breakers
- (5) ASSE - 1024. Dual Check Type Backflow Preventer
- (6) ASSE - 1013. Reduced Pressure Principle Back Pressure Backflow Preventers
- (7) ASSE - 1015. Double Check Valve Type Back Pressure Backflow Preventers
- (8) Manual of Cross-Connection Control. By Foundation for Cross-Connection Control and Hydraulic Research University of Southern California.

**Containment.** A method of controlling potential and/or confirmed cross connections by installation of a double check assembly or a reduced pressure principle backflow prevention device.

**Cross connection.** Any physical arrangement whereby a public water supply system is connected, directly or indirectly, with any other water supply system, sewer, drain, conduit, pool, storage reservoir, plumbing fixture or other device which contains or may contain contaminated water, sewage or other waste or liquid of unknown or unsafe quality, which may be capable of imparting contamination to the public water supply system as a result of backflow. Bypass arrangements, jumper connections, removable sections, swivel or change-over devices or any other temporary or permanent devices through which or because of which backflow could occur are considered to be cross connections.

**Double check valve assembly.** An assembly composed of two single, independently acting check valves, including rightly closing shutoff valves located at each end of the assembly and suitable connections for testing the water tightness of each check valve.

**Health hazard.** Any condition, devices or particles in any water supply system or in its operation which create or may create a danger to the health and well-being of the water consumer.

**Isolation.** A method of controlling potential and/or confirmed cross connections by installation of an air gap separation or a vacuum breaker.

**Pressure vacuum breaker.** Similar to an atmospheric vacuum breaker except that the checking unit "popet valve" is activated by a spring. This type of vacuum breaker does not require a negative pressure to react and can be used on the pressure side of a valve.

**Public water supply.** Any system or water supply intended or used for human consumption or other domestic use, including source, treatment, storage and distribution where water is furnished to any community, collection or number of individuals, or is made available to the public for human consumption or domestic use, but excluding supplies serving one single-family residence.

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**Reduced pressure principle backflow prevention device.** A device incorporating two or more check valves and an automatically operating differential relief valve located between the two check valves or two shutoff valves and equipped with necessary appurtenances for testing. The device shall operate to maintain the pressure in the zone between the two check valves at less than the pressure of the public water supply side of the device even at cessation of normal flow. In case of leakage of either check valve, the differential relief valve shall operate to maintain this reduced pressure by discharging to the atmosphere. When the inlet pressure is two pounds per square inch or less, the relief valve shall open to the atmosphere, thereby providing an air gap in the device. This air gap shall also be above the 100-year flood level.

**10.30.02 Intent and Purpose:** The city, in its operation of a public potable water supply system, is required to ensure protection of public health through the provision of minimum requirements and standards for design, construction, operation and maintenance of its system. It is essential that physical cross connections, which create or have the potential to create an imminent and substantial danger to public health, be eliminated from the distribution system and plumbing systems of customers. Backflow can result in the potable water system becoming a transmitter of disease, toxic materials and other hazardous liquids. Therefore, it is necessary to establish and maintain a cross connection control program to protect the supply of water and the health of water consumers by the control of actual and/or potential cross connections through methods of containment and/or isolation.

**10.30.03 Authority; Conflicts:** Authority for implementing a cross connection control program is given by the Florida Safe Drinking Water Act [§ 403.850 et seq., F.S.] and the Florida Administrative Code, chapter 17-22.107, section 4(b). In case of a conflict between any of the provisions of this chapter and state law or regulation, the more restrictive requirement shall prevail.

**10.30.04 City Responsibilities:** The city is responsible for the protection of its public potable water distribution system from backflow of contaminants or pollutants through any water service connection. If, in the judgment of the city, an approved backflow prevention device is required in the water service connection to any of its customer's premises for the safety of the users of the water system, the city shall give notice in writing to the customer that an approved backflow prevention device shall be installed at the customer's expense. Compliance testing after initial installation of a backflow prevention device shall be performed by the city.

**10.30.05 Consumer Responsibilities:** Failure, refusal or inability on the part of the customer to meet the city's time schedule for installation of such device shall constitute grounds for discontinuance of water service until such device have been properly installed. Any licensed plumber licensed to do business in the city may install the proper device in the correct manner. A permit for such installation is required. In the event of any known or suspected accidental pollution or contamination of the city's potable water system, the consumer shall promptly take steps to confine any further spread of pollution or contamination and shall immediately notify the city of the situation. The consumer shall be responsible for each incident and bear any cost incurred by the city relating to the incident.

### **10.30.06 Requirements for Installation**

(1) All backflow prevention devices shall be installed at a location designated by the city. Generally, this will be immediately on the customer's side of the meter. If circumstances make this location impractical, then the backflow prevention device may be placed further downstream from the meter. However, any piping between the meter and the backflow prevention device must be either exposed or readily accessible for inspection.

(2) All premises having an auxiliary water supply which is not or may not be of safe

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bacteriological or chemical quality and which is not as an additional source of water to the city system shall have an approved air gap separation or an approved reduced pressure principle backflow prevention device installed in order to protect the public water supply against backflow.

(3) For all premises where there is water or substances that could be objectionable but not hazardous to health, if introduced into the public water system, the public water system shall be protected by an approved air gap separation, an approved double check valve assembly, or an approved vacuum breaker.

(4) For all premises where there is any material dangerous to health, which is handled in such a fashion as to create an actual or potential hazard to the public water system, the public water system shall be protected by an approved reduced pressure principle backflow prevention device. Examples of premises where these conditions have been found to exist include sewage treatment plants, sewage pumping stations, chemical manufacturing plants, hospitals, mortuaries and plating plants.

(5) For all premises where there are "uncontrolled" cross connections, either actual or potential, the public water system shall be protected by an approved air gap separation or an approved double check valve or an approved reduced pressure principle backflow prevention device.

(6) For all premises where security requirements or other prohibitions or restrictions make it impossible or impractical to perform a complete in plant cross connection survey, the public water system shall be protected with an approved air gap separation or an approved reduced pressure principle backflow prevention device.

(7) For all premises more than two stories high (excluding basements), the public water system shall be protected by an approved double check valve assembly.

**10.30.07 Facility-Device Requirements:** The following types of facilities shall normally require the designated backflow prevention devices. This list is presented as a guideline and should not be construed as being final or complete. Each case will be judged on its own merits by the director of utilities. Facilities requiring backflow prevention devices: A.G. - Air gap separation; R.P. - Reduced pressure principle backflow prevention device.

Type of Facility	Type of Device
Car wash	A.G. or R.P.
Chemical plant	A.G. or R.P.
Dry cleaners	A.G. or R.P.
Film lab or development	A.G. or R.P.
Food or beverage processing plant	D.C.
Hospitals, clinics and medical buildings	A.G. or R.P.
Ice cream and dairy products	A.G. or D.C.
Irrigation systems	D.C.
Irrigation systems (with chemical feed)	A.G. or R.P.
Laboratories	A.G. or R.P.
Laundries	D.C.
Machine tool plants (health hazard)	A.G. or R.P.
Machine tool plants (no health hazard)	D.C.
Metal plating plants	A.G. or R.P.
Morgues, mortuaries or autopsy facilities	A.G. or R.P.
Multi storage buildings	A.G. or D.C.

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Type of Facility	Type of Device
Packing houses	A.G. or R.P.
Paper product plants	A.G. or R.P.
Pesticide and herbicide exterminations	A.G. or R.P.
Petroleum processing plants	A.G. or R.P.
Petroleum storage plant or yard (health hazard)	A.G. or R.P.
Petroleum storage plant or yard (no health hazard)	D.C.
Pharmaceutical or cosmetic plants	A.G. or R.P.
Piers, docks or waterfront facilities	A.G. or R.P.
Power plants	A.G. or R.P.
Premises having water recirculating systems and pumps (health hazard)	A.G. or R.P.
Premises having water recirculating systems and pumps (no health hazard)	R.P. or D.C.
Premises having boiler, cooling systems or hot water heating systems where chemical water conditioners are used	A.G. or R.P.
Premises having storage tanks, reservoirs, ponds, etc.	A.G. or R.P.
Radioactive material plants	A.G. or R.P.
Sand and gravel plants	D.C.
Schools with laboratories	D.C.
Swimming pools	A.G. or R.P.
Sewage treatment plants	A.G. or R.P.
Sewage pumping stations (health hazard)	A.G. or R.P.
Sewage pumping stations (no health hazard)	D.C.
Sewage pumping stations (outside hose bibs only)	V.B.
Veterinary establishments	A.G. or R.P.
Waterfront property with building	A.G. or D.C.

**10.30.08 Inspection, Service:** The city utilities director, water supervisor or designated representative shall conduct inspections of customers' premises where suspected cross connections or potential cross connections may exist. Should any cross connections or potential cross connections be detected, the customer shall be notified in writing of the appropriate type of backflow prevention device to be installed. Refusal by a customer to allow an inspection shall be considered prima facie evidence of the existence of cross connections, thereby requiring the installation of an approved reduced pressure principle backflow prevention device or the disconnection of service.

**10.30.081 Existing Facilities:** For existing facilities, customers will be asked to complete a questionnaire on their water usage in order to make a preliminary determination of the potential health hazard to the city's water distribution system. When such information or other knowledge indicates a potential health hazard, a survey of the customers' water system shall be conducted. Such surveys need not be a detailed inspection of the location or disposition of water lines, but can be confined to establishing the water use on the premises; the existence of any cross connections; the availability of auxiliary water supplies; the use or availability of pollutants, contaminants and other liquid, solid or gaseous substances that may be used industrially for stabilization of water supplies; and other procedures for determining the degree of health hazard.

**10.30.082 New Services:** All new services shall be classified at the time of application to indicate the degree of hazard anticipated and, hence, the type of device required. This information shall be given to the applicant in writing. Any later change in water usage may require a change in the type of device.

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**10.30.083 Changes in Water Use:** All water customers of the city shall be required to notify the city, in writing, of any changes in their water usage. These changes will be evaluated to determine if there is an increase in the potential health hazard and if such increase requires the installation of a device. If a device is already in place, it will be determined if this device is adequate or if a different type of device is required.

**10.30.09 Records:** Appropriate records shall be maintained by the city of all potential and confirmed cross connections. Installations and tests of backflow prevention devices shall be recorded and filed for future reference.

**10.30.10 Testing, Maintenance of Devices:** Routine testing of backflow prevention devices shall be performed by the city. The frequency of testing will be dependent upon the type of device installed and the potential health hazard involved. Customers will be notified in advance of the date and approximate time that any testing will be performed. It will be necessary to shut off the water service for an approximate period not exceeding 15 minutes, and every effort will be made to schedule tests to suit the customers' convenience. If the customers' operations cannot permit an interruption of service, it will be the customers' responsibility to have two approved backflow prevention devices installed in parallel so that one may be used while the other is being tested. Bypasses around backflow prevention devices are expressly prohibited.

If any devices tested are found to be faulty, the customer will immediately be notified and will be required to have the device promptly repaired or replaced at his or her expense. The customer shall be required to notify the utilities director of the progress of the repair or replacement every fifth work day from receipt of the notice of the failure of the device. In high hazard situations, it may be necessary to terminate service until a properly operating device is in place. The customer should notify the city as soon as any faulty device has been corrected so that it may be retested.

### 10.40 CABLE FRANCHISES

**10.40.01 Purpose, Intent:** The City of Fort Walton Beach finds that the development of cable communications has the potential of having great benefit and impact upon the people of Fort Walton Beach. Because of the complex and rapidly changing technology associated with cable television, the city further finds that the public convenience, safety and general welfare can best be served by exercising regulatory powers which are vested in the city or such persons as the city shall designate. It is the intent of this chapter and subsequent amendments to provide for, and specify the means to attain, the best possible public interest and public purpose in these matters and any franchise issued pursuant to this chapter shall be deemed to include this finding as an integral part thereof.

Further, it is recognized that cable communications systems have the capacity to provide not only entertainment and information services to the city's residents, but can provide a variety of interactive communications services to institutions and individuals. Many of these services involve city agencies and other public institutions, by providing governmental, educational or health care communications. For these purposes, the following goals underlie the regulations contained herein:

- (1) Communications services should be made available to all city residents.
- (2) The cable communications system should be capable of accommodating both the present and reasonably foreseeable future communications needs of the city.
- (3) The cable communications system should be improved and upgraded as necessary during the franchise term so that the new facilities necessary for the operation of this system shall be

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integrated to the maximum extent possible with existing facilities.

- (4) The cable communications system authorized by this chapter shall be responsive to the needs and interests of the local community, and shall provide a wide diversity of information sources and services to the public.
- (5) That the public, educational, and governmental needs for access to the cable communications system are met.

**10.40.2 Application:** This chapter shall apply to all franchises granted at or after its adoption; provided, however, that the provisions hereof relating to application fees and procedures for renewal of franchises shall not apply to any such franchise for which the renewal process was begun prior to the adoption hereof.

**10.40.03 Definitions:** For the purpose of this chapter the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, and words in the plural number include the singular number. The word "shall" is mandatory and "may" is permissive. Words not defined shall be given their common and ordinary meaning.

**Additional services:** Programming or services for which an additional charge is made beyond the charge for basic subscriber services, including, but not limited to: movies, concerts, variety acts, sporting events, pay-per-view programs, interactive services, leased access and any other service utilizing any facility or equipment of a cable television system operating pursuant to a franchise granted under this chapter.

**Affiliates:** When used in relation to any person, means another person who owns or controls, is owned or controlled by, or is under common ownership or control with, such person.

**Audio services:** Audio services such as the retransmission of broadcast FM radio signals, shortwave, weather, news, time and other similar audio services and the transmission of cablecast (nonbroadcast) radio signals.

**Basic cable services:** Any service tier which includes the retransmission of local broadcast signals and the public, educational and government access channels. Basic service may be further defined in the franchise agreement to include specific services or types of services to be provided by the grantee and shall be consistent with any amendment to the Cable Communications Policy Act of 1984 or other applicable federal law or regulation.

**Communications Policy Act of 1984 or Cable Act:** The Cable Communications Policy Act of 1984, Pub. L. 98-549, 98 Stat. 2779 (1984), as amended by the Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996), and as it may be amended in the future.

**Cable communications system, cable system or system:** A facility, consisting of a set of closed transmission paths and associated signal generation, reception and control equipment that is designed to provide cable service which includes video programming and which is provided to multiple subscribers within a community. Such term does not include: (a) a facility that serves only to retransmit the television signals of one or more television broadcast stations; (b) a facility that serves subscribers without using any public right-of-way; (c) a facility of a common carrier which is subject, in whole or in part, to the provision of Title II of the Cable Act, except that such facility shall be considered a cable system (other than for purposes of Section 621(c)) to the extent such facility is used in the transmission of video

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programming directly to subscribers, unless the extent of such use is solely to provide interactive on-demand services; (d) an open video system that complies with §653 of the Telecommunications Act of 1996; or (e) any facilities of any electric utility used solely for operating its electric utility systems.

**Channel:** A six Megahertz (MHz) frequency band, which is capable of carrying either one standard video signal, a number of audio, digital or other nonvideo signals or some combination of such signals.

**Closed-circuit or institutional service:** Such video, audio, data and other services provided to institutional users. These may include, but are not limited to: one-way video, two-way video, audio or digital signals transmitted among institutions and/or to residential subscribers.

**Commercial subscriber:** A subscriber who receives a service in a place of business where the service may be utilized in connection with a business, trade, or profession.

**Converter:** An electronic device which converts signals to a frequency not susceptible to interference within the television receiver of a subscriber, and any channel selector which permits a subscriber to view all signals delivered at designated converter dial locations at the set or by remote control.

**Council:** The City of Fort Walton Beach City Council.

**Days:** Calendar days unless otherwise specified.

*Discrete channel:* A channel which can only be received by the person and/or institution intended to receive signals on such channel.

**Downstream channel:** A channel which is transmitted from the cable communications system headend or other origination point through the cable distribution plant to subscribers.

**Drop:** A coaxial connection from feeder cable to the subscriber/user television set, radio or other terminal. A standard drop shall be a drop whose length is not more than one hundred fifty (150) feet.

**Educational channel or educational access channel:** Any channel designated for non-commercial educational use and which is provided at no charge to subscribers; provided, however, that broadcast of information identifying program sponsorships is permitted.

**Fair market value:** The price that a willing buyer would pay to a willing seller for a going concern based on the system valuation prevailing in the industry at the time.

**FCC:** The Federal Communications Commission and any legally appointed or elected successor.

**Franchise:** A franchise contract entered into voluntarily by the grantee, containing the specific provisions of the franchise granted, including referenced documents and/or specifications. The franchise granted pursuant to this chapter grants the nonexclusive rights to construct, operate and maintain a cable communications system along the streets and public grounds within all or a specified area in the city limits of Fort Walton Beach. Any such authorization, in whatever form granted, shall not mean or include any license or permit required for the privilege of transacting and carrying on a business within the city as required by other chapters and laws of the city.

**Franchise area:** The entire city as the same may exist from time to time.

**Franchise fee:** The percentage, as specified by this chapter, of the grantee's gross revenues from all

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sources payable in exchange for the rights granted pursuant to this chapter and the franchise agreement.

**Franchisee or grantee:** Any natural person(s), partnership(s), domestic and foreign corporation(s) association(s), joint venture(s), or organization(s) of any kind which has been legally granted a franchise by the city, and shall include the lawful successor, transferee or assignee of such franchisee or grantee.

**Government channel or government access channel:** Any channel specifically designated or dedicated for non-commercial government use and which is provided at no charge to subscribers; provided, however, that broadcast of information identifying program sponsorships is permitted.

**Grantor:** The City of Fort Walton Beach as represented by the city council, or its designee, acting within the scope of its jurisdiction.

**Gross annual revenues:** All revenue derived directly or indirectly by the grantee, its affiliates or subsidiaries, from the operation of the grantee's cable system pursuant to a franchise granted by the city, which shall include, but not be limited to: basic subscriber fees; subscriber fees for optional services; subscriber fees for other than basic service; installation, disconnection and reconnection fees; leased channel fees; fees, payments, or other considerations received from programmers; equipment sales and rentals (including converters and remotes); studio and production equipment rentals and other revenues derived from the use of local origination facilities provided by the grantee; advertising revenues; and the sale of, awards for, or any exchange of value for any programming developed for community service or the local origination channel for any governmental or franchising agency. This sum shall exclude bad debts. Taxes levied by federal, state, county, city or other governments and collected on behalf of that government shall be excluded. Gross annual revenues shall include the money collected from subscribers to pay franchise fees collected in conformance to this chapter.

**Installation:** The connection of the system from feeder cable to subscribers' terminal(s).

**Institutional service:** See "closed circuit" definition above.

**Leased access channel or commercial access channel:** Any channel designated or dedicated for use by persons unaffiliated with the grantee, at rates in accordance with the Cable Act.

**Monitoring:** Observing a communications signal, or the absence of a signal, where the observer is not a party to the communication, whether the signal is observed by visual or electronic means, for any purpose whatsoever.

**Narrowcasting:** The ability to distribute cable programming to a particular segment or segments of the cable subscribers.

**Person:** An individual, partnership, association, organization, corporation, joint stock company, trust, or governmental entity or any lawful successor transferee of said individual, partnership, association, organization, corporation, joint stock company, trust, or governmental entity.

**Plant mile:** A linear mile of strand-bearing cable as measured on the street or easement from pole to pole or pedestal to pedestal.

**Programmer:** Any person or entity who or which produces or otherwise provides program material or information for transmission by video, audio, digital or other signals, either live or from recorded tapes or other storage media, to users or subscribers by means of the cable communications system.

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**Public access channel, community access channel or community channel:** Any channel designated or dedicated for noncommercial use by the general public or noncommercial organizations which is made available for use without charge.

**Public property:** Any real property owned by the city or any other government entity other than a highway, street, sidewalk, or easement or dedication.

**Public-rights-of-way or streets and public grounds:** The surface, the air space above the surface, and the area below the surface of any public street, highway, lane, path, alley, sidewalk, boulevard, drive, bridge, tunnel, park, parkways, waterways, utility easements or other public right-of-way or hereafter held by the city which shall entitle the city and the grantee to the use thereof for the purpose of installing and maintaining the grantee's cable communications system. No reference herein, or in any franchise, to the "streets and public grounds" shall be deemed to be a representation or guarantee by the city that its title to any property is sufficient to permit its use for such purpose, and the grantee shall, by its use of such terms, be deemed to gain only such rights to use property in the city as the city may have the undisputed right and power to give.

**Reasonable notice:** Written notice addressed to the grantee at its principal office or such other office as the grantee has designated to the city as the address to which notice shall be transmitted to it, which notice shall be certified and postmarked not less than 14 days prior to that day in which the party giving such notice shall commence any action which requires the giving of notice. In computing said 14 days, recognized city holidays shall be excluded.

**Resident:** Any person residing in the city except as otherwise defined by applicable law.

**Residential subscriber:** A subscriber who receives a service in an individual dwelling unit where the service is not to be utilized in connection with a business, trade or profession.

**Sale:** Any sale, exchange, or barter transaction.

**School:** Any accredited public or nonprofit educational institution including primary and secondary schools, colleges and universities, both public and private.

**Service area:** The entire geographic area within the franchise territory.

**State:** The State of Florida.

**Subscriber:** Any person, firm, corporation or other entity who or which subscribes to, for any purpose, a service provided by the grantee by means of, or in connection with, a cable communications system and who pays the charges.

**System facilities:** The cable communications system constructed for use within the city, without limitation, the head-end, antenna, cables, wires, lines, towers, amplifiers, converters, health and property security systems, equipment or facilities located within the corporate limits of the city designed, constructed or wired for the purpose of producing, receiving, amplifying and distributing by coaxial cable, fiber optics, microwave or other means, audio, radio, television and electronic signals to and from subscribers, in the city and any other equipment or facilities located within the corporate limits of the city intended for the use of the cable communications system; provided, however, such system facilities excludes building, contracts, facilities, and equipment where its sole use is for providing service to other system facilities located outside the city limits.

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**Transfer:** The disposal by the grantee, or any owner(s) thereof, directly or indirectly, by gift, assignment, voluntary sale, merger, consolidation or otherwise, of 25 percent or more at one time of the ownership or controlling interest in the system, or 50 percent cumulatively over the term of the franchise of such interests, to a corporation, partnership, limited partnership, trust or association, or person or group of persons acting in concert. For purposes of this chapter, the term "transfer" shall not include a wholly internal reorganization in which ultimate control of the grantee does not change; provided, however, grantee shall be required to promptly notify the city of such reorganization.

**Trunk line:** The major distribution cable used in cable communications, which divides into feeder lines which are tapped for service to subscribers.

**Upstream signal:** A signal originating from a terminal to another point in the cable television system including video, audio or digital signals for either programs or other uses such as security alert services, etc.

**User:** A person or organization utilizing a channel or equipment and facilities for purpose of producing and/or transmission of material, as contrasted with receipt thereof in a subscriber capacity.

### 10.41 GRANT OF FRANCHISE CONDITIONS

**10.41.01 Grant of Franchise:** The city has the authority to grant a revocable and non-exclusive franchise to construct and operate a cable communications system in, under, over, along, across or upon the streets and public grounds within the City of Fort Walton Beach for the purpose of reception, transmission, collection, amplification, origination, distribution, or redistribution of audio, video, data, or other signals and for the development of broadband telecommunication services in accordance with the laws of the City of Fort Walton Beach, the State of Florida, and United States of America. In exercising rights pursuant hereto, grantee shall not endanger or interfere with the lives of persons, interfere with any installations of the city, any public utility serving the city or any other person permitted to use the streets and public grounds nor unnecessarily hinder or obstruct the free use of the streets and public grounds. The grant of one franchise does not establish priority for use over the other present or future permit or franchise holders or the city's own use of the streets and public grounds. The city shall at all times control the distribution of space in, over, under or across all streets or public grounds occupied by the cable communications system. All rights granted for the construction and operation of the cable communications system shall be subject to the continuing right of the city to require such reconstruction, relocation, change or discontinuance, of the appliances used by the cable communications system in the streets, alleys, avenues, and highways of the city, as shall in the opinion of the city be necessary in the public interest.

**10.41.02 Non-exclusive Grants:** No grant of any franchise shall affect the right of the city to grant to any other person a right to occupy or use the streets, or portions thereof, for the construction and operation of a cable communications system within the city or the right of the city to permit the use of the streets or public grounds of the city for any purpose whatever. By accepting a franchise, the franchisee thereby acknowledges the city's right to make such grants and permit such uses. No privilege or power of eminent domain is bestowed on grantee by the grant of a franchise.

**10.41.03 Conflict:** In the event of conflict between the terms and conditions of this chapter and the franchise, the franchise shall control.

**10.41.04 Subject to General Code Provisions:** Any franchise granted by the city is hereby made subject to the general city code provisions now in effect and hereafter made effective. Nothing in the franchise shall be deemed to waive the requirements of the various codes and ordinances of the city regarding

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permits, taxes, fees to be paid, or manner of construction.

**10.41.05 Use of Public Streets and Ways:** For the purpose of operating and maintaining a cable communications system in the city, the grantee may erect, install, construct, repair, replace, reconstruct and retain in, on, over, under, upon, across and along the public streets and ways within the city such wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, pedestals, attachments and other property and equipment as are necessary to the operation of the cable communications system, provided, however, that grantee complies with all design, construction, safety, and performance provisions contained in this chapter, the franchise, and other applicable laws. The grantee shall also obtain pole attachment agreements for use of any utility poles or other utility facilities required in connection with the provision of services.

**10.41.06 Use of Grantee Facilities:** No poles shall be erected by the grantee without prior approval of the city with regard to location, height, type and any other pertinent aspect. However, no location of any pole of the grantee shall be a vested right and such poles shall be removed, relocated or modified by the grantee at its own expense whenever the city determines that the public convenience would be enhanced thereby. Grantee shall utilize existing poles and conduits, where possible. The city shall have the right, during the life of the franchise, to install and maintain free of charge upon the poles owned by the grantee, any wire and pole fixtures that do not unreasonably interfere with the cable system operations of the grantee.

**10.41.07 Term of Franchise:** The term of the franchise shall commence upon execution of the franchise by the city and the grantee and shall continue for a period specified in the franchise, unless sooner terminated as provided herein. Grantee shall have no property right upon the expiration of the franchise term.

**10.41.08 Franchise Required:** No cable communications system shall be allowed to occupy or use the streets of the city or be allowed to operate within the city without a franchise.

**10.41.09 Police, Regulatory Powers Reserved:** Grantee shall comply with all applicable laws, ordinances and regulations enacted by the city pursuant to any such power. Any conflict between the terms of this chapter or the franchise and any present or future lawful exercise of the city's police and regulatory powers shall be resolved in favor of the franchise.

**10.41.10 Right of Condemnation Reserved:** Nothing in this chapter or the franchise shall limit any right the city may have to acquire by eminent domain or otherwise any property of grantee, provided, however, that any such acquisition shall be for a price that values grantee's property at fair market value, exclusive of the value of the grant of the franchise.

**10.41.11 City's Right to Perform Public Works:** Nothing in this chapter shall be a hindrance to the right of the city or any governmental authority to perform or carry on, directly or indirectly, any public works or public improvements of any description. Should the cable communications system in any way interfere with the construction, maintenance or repair of such public works or public improvements, the grantee shall, at its own cost and expense, protect or relocate its cable communications system, or part thereof, as reasonably directed by the city officials or any governmental authority.

**10.41.12 Emergency Removal of Plant:** If at any time, in case of fire or disaster in the city, it shall become necessary in the reasonable judgment of the city to cut or move any of the wires, cables, amplifiers, appliances or appurtenances of the cable communications system, the city shall have the right to do so at the sole cost and expense of grantee. The grantee shall bear all costs of reinstallation, repair, and other costs resulting from or arising out of the emergency cutting or removal of the cable

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communications system. The Grantor will make reasonable efforts to contact grantee prior to cutting or moving any of the grantee's facilities.

**10.41.13 Removal and Relocation:** The city shall have the power at any time to order and require grantee to remove or relocate any pole, wire, cable, or other structure that is dangerous to life or property. Restoration shall be made to original condition. In the event that grantee after notice, fails or refuses to act within a reasonable time, the city shall have power to remove or relocate the same at the sole cost and expense of grantee.

**10.41.14 Removal or Abandonment:** Upon termination of the franchise by passage of time or otherwise, the grantee shall retain ownership of the cable communication system, except as otherwise provided herein or in grantee's franchise, but shall have no right to the use of public rights of way. In such event and unless grantee transfers the cable communications system to a subsequent grantee approved by the city, grantee shall remove its supporting structures, poles, transmission and distribution systems, and all other appurtenances from the streets and public rights of way and shall restore any property, public or private, to their original condition prior to the installation, erection, or construction of the cable communications system. Restoration of city property, including, but not limited to, the public rights-of-way, shall be in accordance with the directions and specifications of all affected departments and agencies of the city, and all applicable law. The grantee, at the option and direction of the city, shall accomplish such restoration at its expense. Such removal shall be made with the supervision of the city. If such removal and restoration is not completed within 12 months after the notice by the city delivered in writing to grantee all of the grantee's property remaining in the affected public rights-of-way shall, at the option of the city, be deemed abandoned and shall, at the option of the city, become the property of the city. In the event the grantee fails or refuses to remove its system or satisfactorily restore all areas to the condition in which they existed prior to the original construction of the system, the city, at its option, may perform such work and collect the cost thereof from the grantee. No surety on any bond shall be discharged until the city has certified to the grantee in writing that the system has been dismantled, removed, and all other property restored to the satisfaction of the city.

**10.41.15 Limitation on Use of Financial Commitments:** Any financial commitments obtained by the grantee which have been confirmed to the city pursuant to a franchise for use in connection with the construction, operation or maintenance of the cable communications system or the grantee's performance of the terms, obligations, and conditions of this chapter and the franchise shall be used only for such purposes.

### **10.41.16 Transfer of Ownership or Control**

(1) **Transfer of franchise.** No franchise granted hereunder, nor any interest therein, shall be transferred without the prior consent of the city, and then only under such conditions as the city may reasonably establish, however, consent may not be unreasonably withheld.

(2) **Notice.** The grantee shall promptly notify the city of any actual or proposed change in, or transfer of, or acquisition by any other party of, ownership or control of the grantee. The word "control" as used herein is not limited to major stockholders but includes actual working control in whatever manner exercised. A rebuttable presumption that a transfer of ownership or control has occurred shall arise upon the disposal by the grantee, or any owner(s) thereof, directly or indirectly, by gift, assignment, voluntary sale, merger, consolidation or otherwise, of 25 percent or more at one time of the ownership or controlling interest in the system, or 50 percent cumulatively over the term of the franchise of such interests to a corporation, partnership, limited partnership, trust or association, or person or group of persons acting in concert.

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(3) **Conditions.** Every change, transfer, or acquisition of control of the grantee shall make the franchise subject to cancellation unless and until the city shall have consented thereto. For the purpose of determining whether it shall consent to such change, transfer, or acquisition of control, the city may inquire into the legal, financial, character, technical qualifications of the prospective transferee or controlling party, and the grantee shall provide the city with all required information. Failure to provide all information reasonably requested by the city as part of said inquiry shall be grounds for denial of the proposed change, transfer or acquisition of control.

(4) **Assumption of control.** The city agrees that any financial institution or private entities having a pledge of the franchise or its assets for the advancement of money for the construction and/or operation of the franchise shall have the right to notify the city that it will take control and operate the cable television system. If the financial institution takes possession of the cable communications system the city shall take no action to effect a termination of the franchise without first giving to the lender written notice thereof and a period of six months thereafter (unless otherwise provided hereinbelow) (i) to allow the financial institution or its agent(s) to continue operating as the franchisee under the franchise and; (ii) to request the city, and for the city to determine whether, to consent to the assignment of the grantee's rights, title, interest and obligations under the franchise to a qualified operator. The city acknowledges that in order for the financial institution to realize upon the collateral accorded to it by the loan documents, the financial institution must be entitled to a reasonable period of time after taking possession of the franchise under the loan document to obtain the city's consent to an assignment of the franchise to a qualified operator. The city agrees that such reasonable period of time is six months after the financial institution takes possession of the cable communication system and, further, agrees that the city shall use its best efforts to decide upon the assignment of the franchise to the new operator proposed by the financial institution within such period of time. The financial institution shall be entitled to such possession and other rights granted under this paragraph until such time that the city determines whether to consent to such assignment (the "extended time"). If the city finds that such transfer, after considering the legal, financial, character, technical and other public interest qualifications of the applicant are satisfactory, the city will consent to the transfer and assign the rights and obligations of such franchise as in the public interest. During the six-month period or extended time, the financial institution shall enjoy all the rights, benefits and privileges of the grantee under the franchise, and the city shall not disturb such possession by the financial institution, provided the financial institution complies in all respects with the terms and provisions of the franchise and the chapter. The various rights granted to the financial institution under this paragraph are contingent upon the lender's continuous compliance with the terms and provisions of this chapter and the franchise during the entire aforementioned six-month period or extended time, if applicable. For example, should an agent of the financial institution take possession of the cable communication system pursuant to rights granted to the financial institution under this paragraph, and such agent fails to comply with the level of service requirements set forth in this chapter or the franchise, the rights granted to the financial institution under this chapter and the franchise may be terminated in accordance with the procedures set forth in this chapter.

(5) **Consent.** The consent or approval of the city or any other public entity to any transfer of the grantee shall not constitute a waiver or release of the rights of the city in and to the public property or public rights-of-way, and any transfer shall, by its terms, be expressly subject to the terms and conditions of this chapter and the franchise.

(6) **New construction.** In the absence of extraordinary circumstances, the city will not approve any transfer or assignment of the franchise prior to completion of any new construction or substantial completion of a rebuild required by a franchise. This provision shall not apply to routine minor line extensions.

(7) **Purchase price.** The city reserves the right to review the purchase price of any transfer or

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assignment of the cable system. Should the city decide in the future to regulate the rates of the grantee, any negotiated sale value which the city deems unreasonable will not be considered in the rate base for any subsequent request for rate increases, if permitted by applicable law.

(8) **Approval.** Any approval by the city of transfer of ownership or control shall be contingent upon the prospective controlling party becoming a signatory to the franchise agreement.

(9) **Right of first purchase.** The city reserves the right of first purchase in any transfer of the system. If the city decides to exercise this option, it shall give the grantee notice of such intent within 45 days of receipt of notice from the grantee and thereafter the city and the grantee shall effect such transfer under the same terms and conditions as the proposed transferee or on such other terms and conditions as the parties may agree.

### 10.41.17 Rights Reserved to Grantor

**10.41.171 Right to Purchase:** In the event the city revokes a franchise, pursuant to provisions of this chapter, or fails to renew a franchise under the provisions of § 626(c)(1), F.S., (1996), the city shall have the right to purchase the franchised cable communications system. The city shall provide the grantee with notification of the city's intent to purchase within 120 days of termination. The date of valuation shall be no earlier than the day following the date of expiration or termination of the franchise agreement and no later than the date the city makes a fair and reasonable offer for the system or the date of transfer of ownership, whichever occurs first. Upon receipt of notice of the city's intent to purchase the system, the grantee and the city shall have 90 days within which to negotiate the purchase price of the system. Upon exercise of this option, and the payment of the agreed upon sum by the city and its service of official notice of such action upon the grantee, the grantee shall immediately transfer to the city possession and title to all facilities and tangible property, real and personal, of the cable communications system, free from any and all liens and encumbrances not agreed to be assumed by the city in lieu of some portion of the purchase price set forth above; and the grantee shall execute such warranty, deeds or other instruments of conveyance to the city as shall be necessary for this purpose.

#### 10.41.172 Arbitration

In the event the city and grantee are unable to agree upon the value of the cable communications system within the time limits set forth above, either party may require by written notice to the other that the value of cable communications system be submitted to arbitration in the following manner:

- (1) The city and the grantee shall each within 15 days after such written notice select an arbitrator who shall be a disinterested person with reasonable knowledge and experience relative to cable system valuation. The two arbitrators thus selected shall immediately thereafter select a third arbitrator who shall likewise be a disinterested person having reasonable knowledge and experience relative to cable system valuation.
- (2) Within 30 days after appointment of all arbitrators and upon ten days' written notice to the parties, the panel of arbitrators shall commence a hearing on the issue of valuation and shall receive all relevant information from the parties.
- (3) The hearing shall be recorded and may be transcribed at the request of either party.
- (4) If renewal of a franchise is denied, the value of the system for purposes of this subsection shall be the fair market value, determined on the basis of the cable system valued as a going concern but with no value allocated to the franchise itself. If a franchise is revoked,

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the value of the system, for purposes of this subsection shall be an equitable price within the meaning of section 627 of the Cable Act.

- (5) Within 30 days after the close of the hearing, the panel of arbitrators shall prepare findings and decision agreed upon by a majority of the panel which shall be filed with the city and served by mail upon the grantee. The decision of the panel regarding the value of the system shall be final and binding upon the parties. Should there be no majority decision, the proceedings shall become null and void and shall be started anew, unless the parties extend by mutual agreement the time which the panel of arbitrators has to make a decision.
- (6) Either party may seek judicial relief in the following circumstances: a party fails to select an arbitrator; the arbitrators fail to select a third arbitrator; one or more arbitrators is unqualified; designated time limits have been exceeded; the panel has not proceeded expeditiously; the decision was procured by corruption, fraud or undue means; there was evident partiality on the part of one or more arbitrators; the arbitration panel exceeded its authority hereunder; or based upon the record, the panel abused its discretion.
- (7) In the event a court of competent jurisdiction determines that judicial relief is appropriate to the circumstances set forth above, the court in its discretion may order the arbitration procedure repeated and issue findings, orders and directions.
- (8) The expenses of the arbitrators shall be borne by the party appointing each, and the expenses of the third arbitrator and those expenses incurred by the panel as a whole shall be borne equally by the parties.

**10.41.18 Renewal:** Upon completion of the term of any franchise granted under this chapter, the city shall proceed with the renewal process in accordance with the provisions of Section 626 of the Cable Act.

**10.41.19 Franchise Fees:** The grantee of any franchise shall pay to the city a franchise fee in an amount designated in the franchise because

- (1) The public rights-of-way to be used by the grantee in the operation of its system within the boundaries of the franchise area are valuable public properties acquired and maintained by the county, state, and city at great expense to its taxpayers; and
- (2) The grant to the grantee to the said streets is a valuable property right without which the grantee would be required to invest substantial capital in right-of-way costs and acquisitions; and
- (3) The administration of this chapter or the franchise imposes upon the city additional regulatory responsibility and expense.

This franchise fee shall be in addition to any other fee and commence as of the effective date of the franchise. In addition to other financial reports and statements required hereby, the city shall be furnished a statement at the end of each calendar year, certified by the chief financial officer of the grantee, reflecting total amounts of gross revenue, by revenue source; all other charges; and computation of the fee payable for each such annual period.

**10.41.191 Considered Additional Fee:** This payment shall be in addition to any and all fees or assessments of general applicability which are now or may be required hereafter to be paid pursuant to any federal, state, or local law.

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**10.41.192 Acceptance:** Except as otherwise provided by law, no acceptance of any payment by the city shall be construed as a release or as an accord and satisfaction of any claim the city may have for further or additional sums payable as a franchise fee under this chapter or for the performance of any other obligation of the grantee.

**10.41.193 Additional Compensation:** In the event that any franchise payment or recomputed amount is not made on or before the dates specified herein, grantee shall pay as additional compensation an interest charge, computed from such due date, at the annual rate equal to the commercial prime interest rate of the city primary depository bank during the period that such unpaid amount is owed.

**10.41.194 Payments:** The franchise fee and any other cost or damages assessed shall be payable monthly to the City of Fort Walton Beach. The grantee shall file a complete and accurate verified statement of all gross revenue within the city during the period for which said monthly payment is made, and said payment shall be made to the city not later than 15 days after the expiration of each calendar month.

**10.41.195 Right of Inspection, Audit:** The city shall have the right to inspect the grantee's income records and the right to audit and to recompute any amounts determined to be payable under this chapter. Audits shall be at the expense of the city unless the audit discloses an underpayment which equals or exceeds seven and one-half percent of the payments made, in which case the costs of the audit shall be borne by the grantee. Any additional amount due to the city as a result of the audit shall be paid within 30 days following written notice to the grantee by the city which notice shall include a copy of the audit report unless written notice of disagreement is filed with the city within that time,

**10.41.20 Forfeiture or Revocation:** The city reserves the right to revoke any franchise granted hereunder and rescind all rights and privileges associated with the franchise in the following circumstances, each of which shall represent a default and breach under the chapter and the franchise grant:

- (1) If the grantee shall default in the performance of any of the material obligations under this chapter or under such documents, contracts and other terms and provisions entered into by and between the city and the grantee.
- (2) If the grantee shall fail to provide or maintain in full force and effect the liability and indemnification coverage or the performance bond as required herein.
- (3) If the grantee shall knowingly violate any lawful orders or rulings of any regulatory body having jurisdiction over the grantee relative to this chapter or the franchise.
- (4) If the grantee is convicted, by a court of competent jurisdiction, of any fraud or deceit upon the city, fraud or deceit on cable subscribers as a whole, or fraud or deceit on any class or group of subscribers (e.g. senior citizens, basic subscribers, premium subscriber, etc.).
- (5) The grantee's construction schedule is delayed later than the schedule contained in the franchise or beyond any extended date set by the city.
- (6) The grantee becomes insolvent, unable or unwilling to pay its debts or is adjudged bankrupt.
- (7) Failure to restore service after 96 consecutive hours of total system outage interrupted service, except when approval for such interruption is obtained from the city manager. Failure of the

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grantee to restore service which is the direct result of strikes, acts of nature, or other matters beyond the control of grantee shall be exempted from the computation of the 96 consecutive hours of total system outage interrupted service time.

- (8) Material misrepresentation of fact in the application for or negotiation of the franchise or any extension or renewal thereof.
- (9) If the grantee ceases to operate the cable communications system for any reason within the control of the grantee.
- (10) Failure by grantee to fully comply with a pole use agreement or other appropriate agreement with the City of Fort Walton Beach and/or any other necessary parties for usage of poles or other appropriate facilities necessary to the satisfactory operation of the cable television system.
- (11) Failure by grantee to comply with access provisions of this chapter or the franchise.

**10.41.201 Effect of Circumstances Beyond Control of Grantee:** The grantee shall not be declared at fault or be subject to any sanction under any provision of this chapter in any case, in which performance of any such provision is prevented due to acts of God and other reasons beyond the grantee's control. A fault shall not be deemed to be beyond the grantee's control if committed by a corporation or other business entity in which the grantee holds a controlling interest whether held directly or indirectly.

**10.41.202 Effect of Pending Litigation:** Except where permitted by law, pending litigation or any appeal to any regulatory body or court having jurisdiction over the grantee shall not excuse the grantee from the performance of its obligations under this chapter or the franchise. Failure of the grantee to perform such obligations because of pending litigation or petition may result in forfeiture or revocation pursuant to the provisions of this section.

**10.41.203 Procedure Prior to Revocation:** The city shall make written demand that the grantee comply with any such requirement, limitation, term condition, rule or regulation or correct any action deemed cause for revocation. If the failure, refusal or neglect of the grantee continues for a period of 30 days following such written demand, the city may place its request for termination of the franchise upon a regular city council meeting agenda. The city shall cause to be served upon such grantee at least 14 days prior to the date of such council meeting, a written notice of this intent to request such termination, and the time and place of the meeting, notice of which shall be published by the city clerk at least once, seven days before such meeting in a newspaper of general circulation within the city.

The council shall hear any persons interested therein, and shall determine in its discretion, whether or not any failure, refusal or neglect by the grantee was with just cause. If such failure, refusal or neglect by the grantee was with just cause, as determined by the council, the council shall direct the grantee to comply within such time and manner and upon such terms and conditions as are reasonable. If the council shall determine such failure, refusal, or neglect by the grantee was without just cause, then the council shall, by resolution, declare that the franchise of the grantee shall be terminated and bond forfeited unless corrective action is completed or undertaken by the grantee within 90 days.

**10.41.204 Disposition of Facilities:** In the event a franchise expires, is revoked, or is otherwise terminated, the city may purchase the system under the procedures in this section, effect a transfer of ownership of the system to another party, order the removal of the system facilities from the city.

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**10.41.21 Equal Opportunity Policy:** Equal employment opportunity shall be afforded by all operators of cable communication systems to all qualified persons, and no person shall be discriminated against in employment because of race, color, religion, age, national origin, sex, or physical handicap. Grantee shall comply with all equal opportunity provisions enacted by the city, federal, and state authorities, as well as all such provisions contained in this chapter and the franchise. Grantee shall investigate the use of local personnel and, whenever reasonably available, all vendors for services, hardware and supplies, and will use such personnel and vendors whenever feasible, in its discretion.

### 10.42 REGULATORY PROVISIONS

**10.42.01 Regulation of Franchise:** The city shall exercise appropriate regulatory authority under the provisions of this chapter and applicable law. This authority shall be vested in the council and administered through the city manager or a designee. The city manager or a designee shall provide day-to-day administration and enforcement of the provisions of this chapter and any franchise granted hereunder, and shall carry out the city's responsibilities with regard to cable communications.

**10.42.02 Applications:** No person or entity shall operate any cable system within the city without having first obtained a franchise from the city pursuant to this chapter. Each application submitted for a franchise shall be accompanied by the required non-refundable application fee to offset the reasonable cost of processing and evaluating the application. Application fees shall be the following amounts, subject to amendment by resolution of the council: Initial franchise, \$5,000; renewal of a franchise, \$1,000; transfer of a franchise, \$2,500; and for modification of a franchise, \$1,000.

**10.42.03 Governing Requirement:** At all times during the term of the franchise, grantee shall comply with all laws, rules or regulations of the city, state or federal governments, their regulatory agencies or commissions which are now applicable or may be applicable hereafter to the construction and operation of the cable communications system, including without limitation, all laws, ordinances, or regulations now in force or hereafter enacted. The city shall have the maximum plenary authority to regulate the cable communications system, the grantee and the franchise as may at any time be lawfully permissible. If, during the term of any franchise, regulatory authorities permit regulation of cable communication systems or services not permitted to the city on the effective date hereof, the city shall negotiate in good faith with grantee, to engage in any such additional regulation as may then be permissible whether or not contemplated by this chapter or the franchise, including without limitation, regulation respecting franchise fees, taxes, rates charged to subscribers, consumer protection, or any other similar or dissimilar matter.

In the event that any actions of the state or federal government or any agency thereof, or any court of competent jurisdiction upon final adjudication, substantially reduce in any way the power or authority of the city under this chapter or the franchise, or if in compliance with any local, state, or federal law or regulation, the grantee finds direct and specific conflict with the terms of this chapter, the franchise, or any law or regulation of the city, then as soon as possible following knowledge thereof, the grantee shall notify the city of the point of conflict believed to exist between such law or regulation and the laws or regulations of the city, this chapter and the franchise. The city, at its option, may notify the grantee that it wishes to negotiate those provisions which are affected in any way by such modification in regulations or statutory authority. Thereafter, the grantee shall negotiate in good faith with the city in the development of alternate provisions which shall fairly restore the city to the maximum level of authority and power permitted by law. The city shall have the right to modify any of the provisions to such reasonable extent as may be necessary to carry out the full intent and purpose of this chapter and the franchise.

**10.42.04 Right to Inspect Records:** The city shall have the right to inspect all books, records, reports, maps, plans, and financial records relating to calculation of the franchise fee, and other materials of the grantee reasonably necessary to enable the city to review and audit the grantee's performance under this

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chapter and the franchise, at any time during normal business hours. Grantee shall provide such information in such form as may be required by the city for said records.

**10.42.05 Right to Inspect Construction:** The city shall have the right to inspect all construction or installation work performed subject to the provisions of the franchise and to make such tests as it shall find necessary to ensure compliance with the terms of this chapter and other pertinent provisions of the law. Grantee shall not be precluded or prevented from any such inspection.

**10.42.06 Right to Inspect Property:** At all reasonable times, grantee shall permit examination by any duly authorized representative of the city, of system facilities serving the City of Fort Walton Beach, together with any appurtenant property of grantee situated within or without the city.

**10.42.07 Right of Intervention:** The city shall have the right of intervention in any suit or proceeding to which the grantee is party relative to the cable system serving the City of Fort Walton Beach.

**10.42.08 Expense Reimbursement to City:** The grantee and the city shall enter into good faith negotiations for expenses incurred by the city in connection with the granting, extending, or renewing a franchise provided that the grantee may offset such expense against the franchise fee, provided, however, that the fees set forth in section 10-4(a)(2) shall not be offset against the franchise fee.

### 10.43 SUPERVISION OF FRANCHISE

**10.43.01 Supervisory Authority:** The city shall have the following regulatory authority: administration and enforcement of the provisions of this chapter and any franchise; award, renewal, modification, expansion, extension or termination of a franchise pursuant to the provisions of this chapter, the franchise, and other applicable law; consent prior to sale or transfer of any franchise granted; performance evaluation; rate regulation, if applicable.

**10.43.02 Reserved Functions:** The city also reserves the right to perform the following functions:

- (1) Develop objectives and coordinate activities related to the operation of government access channels;
- (2) Approve procedures and standards for public, government and educational access and operations and services, including the use of dedicated channels and sharing of public facilities;
- (3) Coordinate, among governmental entities, plans for expansion, interconnection and growth of cable services;
- (4) Analyze the possibility of integrating cable communications with other city, state or regional telecommunications networks; formulate and recommend long-range telecommunications policy for the city, and determine the future cable-related needs and interests of the community.
- (5) Provide the administrative effort necessary for the conduct of performance evaluations, and any other activities required for the administration of this chapter or the franchise.
- (6) Monitor grantee's process for handling citizen complaints and periodically inspect and analyze the records related to such complaints.
- (7) Receive applications for rate increases, if applicable, and provide staff assistance in the analysis and recommendations thereto.

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- (8) Monitor grantee's adherence to operational standards, service requirements and line extension policies.
- (9) Assure compliance with applicable laws and ordinances.
- (10) Arrange tests and analysis of equipment and performance, as needed to insure compliance with this chapter and the franchise.
- (11) Assure continuity in service.
- (12) Receive for examination all data and reports required by this chapter or the franchise.
- (13) Such other regulatory authority as appropriate to carry out the intent of this chapter or the franchise.

### 10.44 RATES AND CHARGES

**10.44.01 Rate Schedules:** Grantee shall file with the city schedules which shall describe all services offered, all rates and charges of any kind, and all terms and conditions relating thereto. Rate schedules shall be filed at least 30 days prior to the effective date of any change in rates or charges.

**10.44.02 Rates:** Grantee shall establish rates that are nondiscriminatory within the same general class of subscribers which must be applied fairly and uniformly to all subscribers in the franchise area for all services. Nothing contained herein shall prohibit the grantee from offering: (i) discounts to commercial and multiple family dwelling subscribers billed on a bulk basis; (ii) promotional discounts; (iii) reduced installation rates for subscribers who have multiple services; or (iv) discount for senior citizens and/or low income residents.

**10.44.03 Reserved Rights of City:** To the extent that federal or state law or regulation may now, or as the same may hereafter be amended to, authorize the city to regulate the rates for any particular service tiers, service packages, equipment, or any other services provided by grantee, the city shall have the right to exercise rate regulation to the full extent authorized by law, or to refrain from exercising such regulation for any period of time, at the sole discretion of the city.

**10.44.04 Factors:** If and when exercising rate regulation, the city shall consider to the extent permitted by applicable law, along with any other information it deems necessary or appropriate, the following factors in approving or disapproving initial rates or a rate increase request: the ability of the grantee to render system services and to derive a reasonable profit under the existing rate schedule and under the proposed rate schedule, the revenues and profits derived from system services; the efficiency of the grantee; the quality of the service offered by the grantee; the fair value cost of the system less depreciation; a fair rate of return over the life of the franchise with respect to grantee's investment; the extent to which grantee has adhered to the terms of this chapter and the franchise; fairness to city residents, subscribers, and users. The city shall not consider any valuation based upon the franchise and the items of value shall neither be amortized as an expense nor shall a return be paid on them. The city may retain rate consultants as it deems appropriate. If permitted by law or regulation all reasonable charges for such independent consultants shall be paid by grantee and may be offset against franchise fees.

**10.44.05 FCC Certification:** If applicable, the city shall have the right to petition the Federal Communications Commission or other appropriate agency or organization to obtain rate regulation authority or to petition the federal body to review or regulate rates in the city.

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### 10.45 PERFORMANCE EVALUATION

**10.45.01 Scheduled Evaluations:** The city may, at its discretion, hold scheduled performance evaluation sessions annually. All such evaluation sessions shall be open to the public.

**10.45.02 Special Evaluations:** Special evaluation sessions may be held at any time during the term of the franchise at the request of the city.

**10.45.03 Notice of Evaluation Session:** All evaluation sessions shall be open to the public and announced in a newspaper of general circulation. Grantee shall notify subscribers of all such evaluation sessions by announcement on a local origination channel on the system between the hours of 11:00 a.m. and 9:00 p.m. for five consecutive days preceding each session.

**10.45.04 Topics for Session:** Topics which may be discussed at any scheduled or special evaluation session may include, but not be limited to: system performance and construction, grantee compliance with this chapter and the franchise, customer service and complaint response, subscriber privacy, services provided, programming offered, service rate structures, if applicable, franchise fees, penalties, free or discounted services, applications of new technologies, judicial and FCC filings, and line extensions.

**10.45.05 Duty to Cooperate:** During the review and evaluation by the city, the grantee shall fully cooperate with the city and shall provide such information and documents as the city may need to reasonably perform its review; provided, however, that grantee will not be required to create any new records solely for the purpose of providing such information, if it is otherwise available.

### 10.46 BONDS, INSURANCE, INDEMNIFICATION

**10.46.01 Performance Bond:** Prior to the effective date of the franchise, the grantee shall obtain and maintain during the entire term of any franchise and any extensions and renewals thereof, at its cost and expense, and file with the city, a corporate surety bond in an amount specified in the franchise to guarantee the faithful performance of the grantee of all its obligations provided under this chapter and the franchise. Failure to timely obtain, file and maintain said bond shall constitute a violation within the meaning of this section. Such bond must be issued by a surety and in a form acceptable to the city. To the extent that a franchisee has served the city for a period of ten consecutive years and has faithfully and fully performed under the terms of its franchise agreement, the city reserves the right, upon approval by the city council, to waive a performance bond.

**10.46.011 Conditions:** The performance bond shall be issued by a surety licensed to do business in Florida and shall provide the following conditions: there shall be recoverable by the city jointly and severally from the principal and surety, any and all fines and liquidated damages due to the city and any and all damages, losses, costs, and expenses suffered or incurred by the city resulting from the failure of the grantee to faithfully comply with the provisions of this chapter and the franchise, comply with all orders, permits and directives of any city agency or body having jurisdiction over its acts or defaults, pay fees due to the city, pay any claims, liens or taxes due the city which arise by reason of the construction, operation, maintenance or repair of the cable system. Such losses, costs and expenses shall include but not be limited to: attorney's fees and other associated expenses.

**10.46.012 Forfeiture of Bond:** The total amount of the bond shall be forfeited as a liquidated damage paid to the city in the event: the grantee abandons the cable system or fails to initiate or complete construction of the cable system as specified in the franchise or any extension; or the grantee assigns the franchise without the express written consent of the city.

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**10.46.013 Reduction of Bond:** Upon written application by the grantee, the city may, at its sole option, permit the amount of the bond to be reduced or waive the requirements for a performance bond. Reductions granted or denied upon application by the grantee shall be without prejudice to the grantee's subsequent applications or to the city's right, at its sole discretion, to require the restoration of the full bond at any time thereafter. However, no application shall be made by the grantee within one year of any prior application.

**10.46.02 Letter of Credit:** In lieu of, or addition to, the bond described above, and if approved by the city, the grantee may obtain, maintain, and file with the city an irrevocable letter of credit from a financial institution acceptable to the city and licensed to do business in the state in an amount specified in the franchise, naming the city as beneficiary. The form and contents of such letter of credit shall be acceptable to the city and the letter shall be released only upon expiration of the franchise or upon the replacement of the letter of credit by a successor grantee. Failure to obtain the letter of credit within the time specified herein shall constitute a violation within the meaning of this section. If a combination of performance bond and letter of credit is posted as security, the particular obligations or aspects of grantee's performance being secured by each instrument shall be identified in that instrument to the satisfaction of the city.

**10.46.021 Conditions of Letter of Credit:** The city may draw upon the letter of credit if the grantee fails to: faithfully comply with the provisions of this chapter and the franchise; comply with all orders, permits and directives of any city agency or body having jurisdiction over its acts or defaults; pay fees due to the city; or pay any claims, liens or taxes due which arise by reason of the construction, operation, maintenance or repair of the cable system.

**10.46.03 Notice, Use of Bond or Letter:** Prior to drawing upon the letter of credit or the performance bond for the purposes described in this section, the city shall notify the grantee in writing that payment is due and the grantee shall have ten days from the receipt of such written notice to make a full and complete payment. If the grantee does not make the payment within ten days, the city may withdraw the amount thereof, with interest and penalties, from the letter of credit or the performance bond. Within three days of a withdrawal from the letter of credit or performance bond, the city shall send to the grantee, by certified mail, return receipt requested, written notification of the amount, date and purpose of such withdrawal. No later than 30 days, after mailing to the grantee by certified mail notification of a withdrawal, the grantee shall replenish the letter of credit and/or performance bond in an amount equal to the amount so withdrawn. Failure to make timely replenishment of such amount to the letter of credit and/or performance bond shall constitute a violation of this chapter.

**10.46.04 Non-Renewal, Alteration, Cancellation:** The performance bond and letter of credit required herein shall be in a form satisfactory to the city and shall require 30 days' written notice of any non-renewal, alteration or cancellation to both the city and the grantee. The grantee shall, in the event of any such cancellation notice, obtain, pay all premiums for, and file with the city, written evidence of the issuance of replacement bond or policies within 30 days following receipt by the city or the grantee of any notice of cancellation.

**10.46.05 Increase in Amounts:** To offset the effects of consumer price inflation the amounts of the bond and letter of credit provided for herein, are subject to reasonable increases not greater than increases in the Pensacola Standard Metropolitan Statistical Area at the end of every three-year period of the franchise, applicable to the next three year period, at the sole discretion of the city.

**10.46.06 Liability and Insurance:** Prior to commencement of construction, but in no event later than 60 days after the effective date of the franchise and thereafter continuously throughout the duration of the franchise and any extensions or renewals thereof, the grantee shall furnish to the city, certificates of

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insurance, approved by the city, for all types of insurance required under this section. Failure to furnish said certificates of insurance in a timely manner shall constitute a violation of this chapter. At the city's request, grantee shall furnish copies of any or all policies which are in effect from time to time.

**10.46.07 Filing Requirements:** Any insurance policy obtained by the grantee in compliance with this section shall be filed and maintained with the city clerk during the term of the franchise, and from time to time the city may require, and the grantee shall furnish, changes in such policies to reflect changing liability limits and/or to compensate for inflation. Grantee shall immediately advise the city of any litigation that may develop that would affect this insurance.

**10.46.08 No Limitation of Liability:** Neither the provisions of this section or any damages recovered by the city hereunder, shall be construed to or limit the liability of the grantee for damages under any franchise issued hereunder.

**10.46.09 Endorsement Required:** All insurance policies maintained pursuant to this chapter or the franchise shall contain the following, or a comparable, endorsement: "It is hereby understood and agreed that this insurance policy may not be modified or canceled by the insurance company nor the intention not to renew be stated by the insurance company until 30 days after receipt by the city's manager, by registered mail, of a written notice of such intention to cancel or not to renew."

**10.46.10 Contractual Liability Policies:** All contractual liability insurance policies maintained pursuant to this chapter or the franchise shall name the city as an additional insured.

**Sec. 10.46.11. Insurance Companies:** All insurance policies provided under the provisions of this chapter or the franchise shall be written by companies authorized to do business in the state and approved by the State Board of Insurance.

**10.46.12 City as Additional Insured:** At any time during the term of the franchise, the city may request and the grantee shall comply with such request, to name the city as an additional named insured for all insurance policies written under the provisions of this chapter or the franchise.

**10.46.13 Coverage Increases:** To offset the effects of inflation and to reflect changing liability limits, all of the coverages, limits, and amounts of the insurance provided for herein are subject to reasonable increases not greater than increases in the Pensacola Standard Metropolitan Statistical Area at the end of every three (3) year period of the franchise, applicable to the next three year period, at the sole discretion of the city.

### **10.46.14 Coverage Amounts**

**10.46.141 Commercial General Liability:** The grantee shall maintain, and by its acceptance of any franchise granted specifically agrees that it will maintain throughout the term of the franchise, general liability insurance to include coverage for comprehensive form, premises-operations, explosion and collapse hazard, underground hazard, products/completed operations hazard, contractual insurance, broad form property damage, and personal injury, in the minimum of:

- (1) \$1,000,000.00 for property damage per occurrence
- (2) \$2,000,000.00 for property damage aggregate
- (3) \$5,000,000.00 for personal bodily injury or death to any one person, and

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- (4) \$10,000,000.00 bodily injury or death aggregate per single accident or occurrence

**10.46.142 Automobile Liability Insurance:** The grantee shall maintain, and by its acceptance of any franchise granted specifically agrees that it will maintain throughout the term of the franchise, automobile liability insurance for owned, non-owned, or rented vehicles in the minimum amount of:

- (1) \$1,000,000.00 for bodily injury and consequent death per occurrence
- (2) \$1,000,000.00 for bodily injury and consequent death to any one person
- (3) \$500,000.00 for property damage per occurrence

**10.46.143 Worker's Compensation and Employer's Liability:** The grantee shall maintain and by its acceptance of any franchise granted hereunder specifically agrees that it will maintain throughout the term of the franchise, Worker's compensation and employer's liability, valid in the State, in the minimum amount of:

- (1) Statutory limit for worker's compensation
- (2) \$100,000.00 for employer's liability

**10.46.15 Indemnification:** Grantee shall, at its sole cost and expense, fully indemnify, defend and hold harmless the city, its officers, boards and commissions, and city employees against any and all claims, suits, actions, liability and judgments for damages, including expenses for reasonable legal fees and disbursements and liabilities assumed by the city, 1) to persons or property, in any way arising out of or through the acts or omissions of grantee, its servants, agents or employees, or to which grantee's negligence shall in any way contribute; 2) arising out of any claim for invasion by grantee of the right of privacy, for defamation of any person, firm or corporation, or the violation or infringement of any copyright, trademark, trade name, service mark or patent, or of any other right of any person, firm or corporation except to the extent such claim arises out of the use or operation of any public, educational or governmental access channel; 3) arising out of grantee's failure to comply with the provisions of any federal, state, or local statute chapters or regulation applicable to grantee in its business hereunder.

**10.46.16 Conditions of Indemnity:** The foregoing indemnity is conditioned upon the city giving grantee prompt notice of the making of any claim or the commencement of any action, suit or other proceeding covered by the provisions of this section. Nothing herein shall be deemed to prevent the city from cooperating with grantee and participating in the defense of any litigation by its own counsel at its sole cost and expense.

### 10.47 DESIGN AND CONSTRUCTION PROVISIONS

**10.47.01 Authority to Construct:** All necessary applications for permits, licenses, certificates and authorizations shall be applied for in a timely fashion so that such filing and processing shall not interfere with or cause delay with the construction scheduled as outlined in the franchise. Failure to make such timely application and timely filing shall constitute a violation of this chapter. Upon grant of a franchise and in order to construct, rebuild, operate and maintain a cable system in the city, the grantee may enter into contracts with any public utility companies or any other owner or lessee of any poles or underground areas located within or without the city; obtain right-of-way permits from appropriate city, state, county, and federal officials necessary to cross or otherwise use highways or roads under their respective jurisdiction; obtain permission from the Federal Aviation Administration to erect and maintain antennas; and obtain whatever other permits a city, county, state or federal agency may require.

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**10.47.02 Construction, Technical Standards:** Grantee shall construct, install, operate and maintain its system in a manner consistent with all laws, ordinances, construction standards or guidelines, governmental requirements and FCC technical standards as stated in FCC Rules and Regulations, Part 76, Subpart K ("Technical Standards"). The grantee shall perform all tests necessary to determine compliance with the technical standards of FCC Rule section 76.601. Written records of test results shall be maintained, and shall be available for grantor's inspection upon request. The grantee, through the system, shall provide uniform, strong signals which are free from any significant distortion and interference. The system shall be designed, constructed, operated and maintained for 24-hours-a-day continuous operation. The system shall produce, for reception on subscriber's receivers which are in good working order, either monochrome or color pictures (providing the receiver is color capable) which are free from any noticeable interference or distortion which would cause any material degradation of video or audio quality.

**10.47.03 System Standards:** The grantee shall construct, install, operate and maintain its system in accordance with all applicable federal, state, and local laws and regulations, and with the highest standards of the cable communications industry, such standards to include, but not limited to the following. The system will be a 110 channel capable system spaced to permit a minimum of 750 Mhz operation, will be capable of utilizing addressable converters, and will be compatible with cable ready television sets. Notwithstanding the foregoing, the grantee shall not be required to undertake any rebuilds in terms of channel capacity or band width in excess of any requirement in the franchise.

**10.47.04 Notice of Installation of Tower, Pole:** Prior to the erection of any towers, poles or conduits or the construction, upgrade or rebuild of a cable communications system authorized under this chapter, the grantee shall first give a 15-day written notice of the construction, upgrade or rebuild projects to the city manager and, shall make available for inspection by the city and other designated parties a concise description of the facilities proposed to be erected or installed, including engineering drawings, if required, together with a map and plans indicating the proposed location of all such facilities. The city shall be provided with a copy of the system's as-built maps on a disk in a format acceptable to the city. No erection or installation of any tower, pole, underground conduit, or fixture or any rebuilds or upgrading of the cable communications system shall be commenced by any person until all required regulatory approvals and permits have been received. Notwithstanding the foregoing, in the case of an emergency, the fifteen day notice required above may be waived by the city manager contingent upon the grantee providing the information as quickly as the circumstances reasonably permit.

**10.47.05 Contractor Qualifications:** Any contractor proposed for work or construction, installation, operation, maintenance, and repair of system equipment must be properly licensed under laws of the state, and all applicable local ordinances.

**10.47.06 Location:** The grantee's system and associated equipment erected by the grantee within the city shall be so located as to cause minimum interference with the proper use of streets, alleys, and other public ways and places, and to cause minimum interference with the rights and reasonable convenience of property owners who adjoin any of the said streets, alleys or other public ways and places. No pole or other fixtures placed in any public ways by the grantee shall be placed in such a manner as to interfere with normal travel on such public way.

**10.47.07 City Maps:** The city does not guarantee the accuracy of any maps showing the horizontal or vertical location of existing substructures. In public rights-of-way, where necessary, the location shall be verified by excavation.

**10.47.08 Construction Standards:** Construction, installation, operation, and maintenance of the cable communications system shall be performed in an orderly and workmanlike manner, in accordance with

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then current technological standards. All cables and wires shall be installed, where possible, parallel with electric and telephone lines. Multiple cable configurations shall be arranged in parallel and bundled with due respect for aesthetic and engineering considerations.

**10.47.09 Code Standards:** Grantee shall at all times comply with: a. National Electrical Safety Code (National Bureau of Standards); b. National Electrical Code (National Bureau of Fire Underwriters); c. the Bell Blue Book; d. applicable FCC or other federal, state and local regulations; e. utility pole attachment agreements entered into with the city and any other entity.

**10.47.10 General Safety Standard:** In any event, the system shall not endanger or interfere with the safety of persons or property in the franchise area or other areas where the grantee may have equipment located.

**10.47.11 Antenna Structures:** Any antenna structure used in the cable communications system shall comply with construction, marking, and lighting of antenna structure standards as required by federal and state law or regulation.

**10.47.12 OSHA:** All worker facilities, conditions, and procedures that are used during construction, installation, operation, and maintenance of the cable system shall comply with the standards of the Occupational Safety and Health Administration.

**10.47.13 RF Leakage:** RF leakage shall be checked at reception location for emergency radio services to prove measurable interference signal combinations are possible. Stray radiation shall be measured adjacent to any proposed aeronautical navigation radio sites to prove no measurable interference to airborne navigational reception in the normal flight pattern. FCC rules and regulations shall govern. The system shall cause no measurable interference in TV signal reception to any operating receiver not connected to and serviced by the system.

**10.47.14 Standby Power:** The grantee shall maintain equipment capable of providing standby power for a minimum of eight hours for the head-end and two hours for transportation and trunk amplifiers.

**10.47.15 System Construction Schedule:** The franchise shall specify the construction schedule.

**10.47.16 Extension of Service:** The grantee shall provide service to all dwelling units and commercial entities requesting service within the city and any areas annexed to the city as provided in the franchise.

### **10.47.17 Use of Streets**

**10.47.171 Aboveground or Underground Installations:** All installations shall be underground in those areas of the city where public utilities providing telephone and electric service are underground at the time of cable installation. In areas where either telephone or electric utility services are above ground at the time of cable installation, grantee may install its service above ground, provided that at such time as both telephone and electric utility services are required to be placed underground or are placed underground, the grantee shall likewise place its services underground. Where not otherwise required to be placed underground by this chapter or the franchise, the grantee's system shall be located underground at the request of the adjacent property owner, provided that the excess cost over the aerial location shall be borne by the property owner making the request. All cable passing under the roadway shall be installed in conduit.

**10.47.172 City Approval Required:** Prior to construction or alteration, however, the grantee shall in each case file plans with the appropriate city agencies, complete use agreements with the utility

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companies, obtain all construction permits and receive written approval of the city before proceeding.

**10.47.173 Interference with Third Parties Prohibited:** The grantee's system and facilities, including poles, lines, equipment and all appurtenances, shall be located, erected and maintained so that such facilities shall:

- (1) Not endanger or interfere with the health, safety or lives of persons;
- (2) Not interfere with any improvements the city, county, or state may deem proper to make;
- (3) Not interfere with the free and proper use of public streets, alleys, bridges, easements or other public ways, places or property, except to the minimum extent possible during actual construction or repair;
- (4) Not interfere with the rights and reasonable convenience of private property owners, except to the minimum extent possible during actual construction or repair; and
- (5) Not obstruct, hinder or interfere with any gas, electric, water or telephone facilities or other utilities located within the city.

**10.47.174 Restoration of Area:** In case of any disturbance of pavement, sidewalk, driveway or other surfacing, the grantee shall, at its own cost and expense and in a manner approved by the city, replace and restore all paving, sidewalk, driveway, landscaping, or surface of any street or alley disturbed, in as good a condition as, or better than, before said work was commenced and in a good workmanlike, timely manner in accordance with standards for such work set by the city. Such restoration shall be undertaken within no more than ten business days after the damage is incurred and shall be completed as soon as possible thereafter.

**10.47.175 Relocation of Facilities:** In the event that at any time during the period of the franchise, the city, county or state shall lawfully elect to alter, or change, any utility poles, or any street, alley or other public ways, the grantee, upon reasonable notice by the proper authority, shall remove or relocate as necessary its poles, wires, cables, underground conduits, manholes and other fixtures at its own expense.

**10.47.176 Cooperation with Building Movers:** The grantee shall, on the request of any person holding a building moving permit issued by the city, temporarily raise or lower its wire to permit the moving of buildings. The expense of such temporary removal, raising or lowering of wires shall be paid by the person requesting the same, and the grantee shall have the authority to require such payment in advance. The grantee shall be given not less than 15 working days' advance notice to arrange for such temporary wire changes.

**10.47.177 Tree Trimming:** The grantee shall have the authority, except when in conflict with existing local ordinances, to trim any trees upon and overhanging public right-of-way so as to prevent the branches of such trees from coming in contact with system facilities, under the supervision of a certified forester and in accord with the principles of the Florida Urban Forestry Council and/or American Society of Landscape Architects, except that at the option of the city, such trimming may be done by it, or under its supervision and direction, at the expense of the grantee.

**10.47.178 Easements:** All necessary easements over and under private property shall be arranged for by the grantee.

**10.47.18 Erection, Removal, Common Use of Poles:** No poles shall be erected by the grantee without prior approval of the city with regard to location, height, types and any other pertinent aspect. However, no location of any pole or wire-holding structure of the grantee shall give rise to a vested interest and such poles or structures shall be removed or modified by the grantee at its own expense whenever the city determines that the public convenience would be enhanced thereby. Where poles already exist for use by the grantee, but the grantee elects not to use them, the city may deny grantee the use of public right of way for the purpose of setting grantee's poles.

**10.47.19 Conduit:** Where conduit already exists for use by the grantee, but the grantee elects not to use it, the city may deny the grantee the use of public right of way for the purpose of installing the grantee's conduit if the conduit is made available at reasonable terms and conditions.

**10.47.20 Construction Reporting Requirements:** The grantee shall provide the city with written progress reports detailing work completed to date and a schedule for completion of construction. Such report shall include a description of the progress in applying for any necessary agreements, licenses, or certifications and any other information the city manager or a designee may deem necessary. The content and format of the report will be determined by the city manager or a designee. The final content and format of the report shall be determined by the city manager. Upon commencement of such construction or rebuild, such written progress reports shall be submitted to the city on a bimonthly basis throughout the entire construction or rebuild process. The city manager may require more frequent reporting if he/she determines it is necessary to better monitor the grantee's progress. Prior to the commencement of any major system construction, the grantee shall produce an informational document to be distributed to all residents of the area to be under construction, which shall describe the activity that will be taking place. The informational document shall be reviewed and approved by the city manager prior to its distribution.

#### **10.47.21 Tests and Performance Monitoring**

(1) **Performance tests.** Not later than 30 days after any new or substantially rebuilt portion of the system is made available for service to subscribers, the grantee shall conduct technical performance tests to demonstrate full compliance with all technical standards contained in this chapter and the franchise, and the technical standards and guidelines of the FCC.

(2) **Performance test results.** Such tests shall be performed by a qualified technician. A report shall be submitted to the city, describing test results, instrumentation, calibration, and test procedures, and the qualification of the technician responsible for the tests.

(3) **Test points.** System monitor test points shall be established and such periodic tests shall be made at the test points as shall be required by the FCC and/or the franchise.

(4) **FCC performance tests.** In addition to the performance test reports required herein, a copy of any performance test reports required by the FCC shall be made available to the city upon written request within 60 days of completion.

(5) **Notice of noncompliance.** If the city has a reasonable basis to believe that a grantee is not complying with one or more performance standards specified in rules or regulations promulgated by the FCC, it may provide notice of such noncompliance to the grantee. The grantee shall have 30 days after such notice to demonstrate that it is complying with applicable FCC standards. Thereafter, the city may conduct proof-of-performance tests to determine if the grantee is in compliance with FCC performance standards. The grantee shall have the right to conduct such proof-of-performance tests jointly with the city; provided, however, that the grantee's participation shall not unreasonably delay the testing. If the city's proof-of-performance testing demonstrates that the grantee does not comply with any performance

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standard, the grantee shall, within 30 days, reimburse the city for its testing costs and bring the cable system into compliance with such standards.

(6) **Consultants.** The city shall have the right to employ qualified consultants if necessary or desirable to assist in the review, evaluation, and monitoring of grantee's performance under this or any other section of this chapter or the franchise.

### 10.48 SERVICE PROVISIONS

**10.48.01 Service to Subscribers and Institutions:** Concurrently with the activation of the cable communications system in the city, the grantee shall provide all services to subscribers as described herein.

- (1) The system shall carry the broad categories of programming and services listed in the franchise. Should the grantee desire to change the programming and services listed in the franchise, it shall maintain the mix, quality and level of services provided over the system. Any such change in programs or services offered shall comply with the conditions and procedures contained in the franchise, and shall be reported to the city at least 30 days prior to the proposed implementation. The grantee shall use its best efforts to ensure diversity of programming.
- (2) Basic cable services shall be offered to subscribers throughout the term of the franchise.
- (3) The grantee may provide and maintain the following access channels, the number of which shall be specified in the franchise. "Government access channel" which shall be a specifically designated channel scheduled and programmed exclusively by the city. "Educational channel" which shall be a specifically designated channel managed, scheduled and programmed exclusively by local public and private school authorities. A "Public access channel," which will be a specifically designated channel available on a first-come, first-served, non-discriminatory basis.
- (4) The grantee shall make available leased access channels to assure that the widest possible diversity of information sources are made available to subscribers. Such channels shall be specially designated for leased access use by persons unaffiliated with the grantee, at rates which are fair and reasonable. The number of such channels shall be determined by the provisions of the Cable Communications Policy Act of 1984 or other applicable federal or state law. Grantee shall advertise periodically the availability of such channels. Grantee shall not exercise any editorial control over any programming provided over such channels, except that grantee may consider such content to the minimum extent necessary to establish a fair and reasonable price for the use of such channels.
- (5) The grantee shall provide for adequate equipment for emergency alert capability as specified in the franchise.
- (6) The grantee shall fully provide, at a minimum, services, facilities and equipment for public, educational and government access as indicated in the franchise.
- (7) The grantee shall provide such institutional network facilities and service as may be required by the franchise.
- (8) The grantee shall, without charge, provide, service and maintain public emergency transmission facilities to the city, as described in the franchise.

**10.48.02 Conditions of Installations, Connections, Services**

(1) **Standard installations.** Standard installation shall consist of a drop 150 feet from a single point or pedestal attachment to the customer's residence. For installation of service in excess of 150 feet and concealed wiring, subscriber shall be charged only for the cost exceeding normal installation costs. The desire of the subscriber as to the point of entry into the residence or commercial establishment and location of pedestal shall be observed whenever possible. Runs in building interiors shall be as unobtrusive as possible. The grantee shall use due care in the process of installation and shall repair any damage to the subscriber's property caused by said installation. Such restoration shall be initiated as soon as possible thereafter.

(2) **Antennas and antenna switches.** The grantee shall not, as a condition to providing cable communications service, require any subscriber or potential subscriber, to remove any existing antenna structures for the receipt of over-the-air television signals.

(3) **Lockout devices.** The grantee shall provide to the subscriber, as part of its general literature, subscriber information concerning the availability of a lockout device for use by a subscriber. The lockout device shall be made available to all subscribers requesting it beginning on the first day that any cable service is provided.

(4) **Reconnection.** Grantee shall restore service to customers wishing restoration of service provided customer shall first satisfy any previous obligations owed.

(5) **Free disconnection.** Subscribers shall have the right to have cable service disconnected without charge. A refund of unused service charges shall be paid to the customer within 30 days from the date of termination of service.

(6) **Downgrade fees.** No downgrade fees shall be charged unless it requires a technician to be dispatched to the subscriber's home.

(7) **Delinquent accounts.** Grantee shall use its best efforts to collect on delinquent subscriber accounts. In all cases, the grantee shall provide the customer with at least ten working days written notice prior to disconnection.

(8) **Subscriber policies.** The grantee shall comply with all subscriber policies in the cable chapter and the franchise agreement.

(9) **Installation.** For a standard installation, the grantee shall install cable to a subscriber within 10 business days of request by the subscriber.

(10) **Outages.** The grantee, upon subscriber request, shall credit the subscribers account for a prorata share of the monthly bill commensurate with the period of time a subscriber experiences an outage in excess of six hours.

**10.48.03 Service Calls, Complaint Procedures**

(1) **Payment stations.** The grantee shall establish, operate and maintain at least one payment station within the city limits for the purpose of payment of subscriber's service charges and to receive written inquiries, requests and complaints concerning all aspects of the construction, installation, operation, and maintenance of the grantee's system. Additional or alternative payment stations may be included in the franchise.

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(2) **Telephone contact numbers.** The grantee shall have a listed local, telephone number or numbers for service calls available 24 hours a day, seven days a week. Said number shall be made available to subscribers and the general public. The grantee shall provide the local telephone number or numbers of management personnel of the grantee to the city and utility companies to enable the city or utility companies to reach the grantee in case of emergency on a 24-hour, seven-days-a-week basis.

(3) **Filing of rules and regulations.** The grantee shall prepare and file with the city copies of all of its rules and regulations in connection with the handling of inquiries, requests and complaints. The grantee shall, by appropriate means, such as a card or brochure, furnish information concerning the procedures for making inquiries or complaints, including the name, address and local telephone number of the employee or employees or agent to whom such inquiries or complaints are to be addressed, and furnish information concerning the city office responsible for the administration of the franchise, including, but not limited to, the address and telephone number of said office.

(4) **Complaint records.** The grantee shall keep full records in connection with all complaints and requests in connection with the system. Such records shall identify the person responding on behalf of the grantee, the subject matter of the contact, the date and time it was received, the resolution of the matter in question or the action take by the grantee in connection with the contact, and the date and time thereof, and such other information as may be deemed pertinent by the grantee. These records shall be made available for periodic inspection by the city.

(5) **Defective equipment.** The grantee shall service or replace without charge any of its equipment provided to a subscriber, which proves defective.

(6) **City recommendation of resolution.** The city may review and recommend to the grantee a resolution of customer complaints.

### **10.48.04 Operation after Termination, Expiration of Franchise:**

(1) **Service.** It shall be the right of all subscribers to receive continuous, uninterrupted service insofar as their financial obligations to the grantee are honored.

(2) **Failure to provide continuity.** In the event the grantee fails to operate the system for seven consecutive days without prior approval of the city or without just cause, the city may, at its option, operate the system or designate an operator until such time as grantee restores service under conditions acceptable to the city or a permanent operator is selected. If the city is required to fulfill this obligation for the grantee, the grantee shall reimburse the city for all reasonable costs or damages in excess of revenues from the system received by the city that are the result of the grantee's failure to perform.

(3) **Operation if franchise terminated/expired.** In the event the franchise is terminated, or upon its expiration, the council may require the grantee to continue operation for a period not exceeding six months after the date of the grantee's termination or expiration upon the same terms and conditions as are contained in the expired or terminated franchise. Upon the expiration of such period the grantee shall remove, at its own expense, all portions of its cable television system from all streets and public ways and restore such streets and public ways to a condition reasonably satisfactory to the city as specified in section 10-6 unless the city has previously approved a transfer of the system in accordance with section 10-3(m) hereof. The grantee shall maintain bonds and letters of credit pursuant to section 10-5 until the conclusion of all operations under the franchise and this chapter, including the removal of all equipment and facilities.

**10.48.05 Protection of Subscriber Privacy:** Protection of subscriber privacy mandatory. Grantee shall

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at all times protect the privacy of subscribers, as provided in this chapter and other applicable federal, state, and local laws. At the time of entering into an agreement to provide any cable service or other service to a subscriber, and at least once a year thereafter, grantee shall provide notice in the form of a separate written statement to each subscriber which clearly and conspicuously informs the subscriber of:

- (1) The privacy rights of the subscriber and the limitations placed upon grantee with regard this chapter and all other applicable federal, state, and local subscriber privacy provisions;
- (2) The nature of personally identifiable information collected or to be collected with respect to the subscriber and the nature of the use of such information;
- (3) The nature, frequency, and purpose of any disclosure which may be made of such information, including an identification of the types of persons to whom the disclosure may be made;
- (4) The period during which such information might be maintained by the cable operator;
- (5) The times and place at which the subscriber may have access to such information in accordance with this chapter and other applicable federal, state, and local law;
- (6) The procedure for acquiring the subscriber's authorization, in writing or electronically, for the use of personally identifiable information not specifically allowed under the Cable Act.

**10.48.051 Collection of Information Prohibited:** Grantee shall not use or permit the use of the cable system to collect personally identifiable information concerning any subscriber without the subscriber's written or electronic consent, except as necessary to render a cable service or other service provided by the cable operator to the subscriber. Grantee shall not install or permit the installation of any special terminal equipment in any subscribers premises for the two-way transmission of any aural, visual, or digital signals without the prior written or electronic consent of the subscriber. Grantee shall not tabulate, nor permit others to tabulate, any subscriber use of the cable system which would reveal the opinions or commercial product preferences of individual subscribers, whether residential or business, or of any occupant or user of the subscriber's premises without written or electronic authorization from the subscriber for his or her participation in a shop-at-home or similar service unless such tabulation and use of data is specifically permitted by the Cable Act. When providing such service, the grantee may tabulate only those responses essential to the functioning of that shopping or other service, and may not use any such tabulation of individual preferences for any other purposes. Tabulations of aggregate opinion or preference are permitted, provided the aggregations are sufficiently large to assure individual privacy.

**10.48.052 Disclosure of Subscriber Information Prohibited:** Unless affected subscribers are first given an opportunity to prohibit or limit such disclosure, grantee shall not sell or otherwise make available to any party any list of the names and addresses of individual subscribers, any list which identifies the viewing habits of individual subscribers, or any personal data, social security number, income and other data the company may have on file about individual subscribers, except as necessary to render or conduct a legitimate business activity related to a cable service or other service provided by the cable operator to the subscriber, provided, however, that such disclosure shall not reveal directly or indirectly the extent of viewing or other use by the subscriber of a cable service or other service provided by the cable operator, or the nature of any transaction made by the subscriber over the cable system.

**10.48.053 Notices of Monitoring:** Grantee shall report to the affected parties, the city and other appropriate authorities, any instances of monitoring or tapping of the system, or any part thereof, of

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which it has knowledge, which is not authorized under this section whether or not such activity has been authorized by grantee. Grantee shall not record or retain any information transmitted between a subscriber or user and any third party, except as required for lawful business purposes. Grantee shall destroy all subscriber or user information of a personally-identifiable nature after a reasonable period of time, unless retention of such information is authorized by the affected subscriber or user.

**10.48.054 Polling by Cable:** No poll or other upstream response from a subscriber shall be conducted or obtained except as part of a program that contains an explicit disclosure of the nature, purpose and prospective use of the results of the poll or upstream response and where the program has an informational, entertainment or educational function which is self-evident. Grantee or its agents shall release the results of upstream responses only in the aggregate and without individual references.

**10.48.055 Monitoring Devices:** Grantee shall provide written notice to each subscriber when equipment is to be installed on the system which would permit the recording or monitoring of individual viewing habits of a subscriber or household; such equipment shall be installed only after prior written permission has been granted by the subscriber. Such permission may be valid for one year only and may be renewed by permission of the subscriber. In no event shall such permission be obtained as a condition of service or continuation thereof. Grantee shall give each subscriber annual written notice of any such monitoring and of the subscriber's right to terminate the monitoring in accordance with the terms and conditions of the subscriber's contract with grantee. Nothing herein shall apply to the use of addressable converters or equipment used by a subscriber to select programming.

**10.48.056 Collection of Information:** Grantee shall not predicate regular subscriber service on the subscriber's grant or denial of permission to collect, maintain or disclose personally identifiable information. A subscriber may at any time revoke any permission previously given by delivering to the grantee a written statement of that intent.

**10.48.057 Subscriber Access:** Each subscriber shall be provided access to all personally identifiable information regarding such subscriber that grantee collects or maintains or allows to be collected or maintained, and such subscriber shall be provided the opportunity to correct any error in such information.

**10.48.058 Signals for Performance:** This section is not intended to prohibit the use or transmission of signals useful for the control or measurement of system performance or theft of service.

**Sec. 10.48.06. Rights of Individuals:** Grantee shall not deny service, deny access, or otherwise discriminate against subscribers, channel users or general citizens on the basis of race, color, religion, national origin, age, sex, or physical or mental handicaps, provided the subscriber shall pay all applicable fees for the service desired. Grantee shall comply at all times with all other applicable federal, state and local laws and regulations, relating to nondiscrimination which are hereby incorporated and made part of this chapter by reference. Any portion of a cable system controlled by grantee shall be operated in a manner consistent with the principles of fairness and equal accessibility of its facilities and equipment; and no one shall be arbitrarily excluded from its use; allocation of use of said facilities shall be made according to the rules or decisions of the grantee and any regulatory agencies affecting the same.

**10.48.061 Information Accessibility:** Each individual shall have the right to information concerning the provisions of this chapter and the rules and regulations formulated pursuant to it by the council, the grantee, agent or entity created hereunder or pursuant to this chapter. Each individual subscribing to the services of the cable communications system or leasing channels thereon shall be provided with

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a simple but thorough written explanation of all rights of the subscriber as set forth in this chapter and the franchise. Such information as may herein be prescribed will be made available to the public and individual subscribers in such form as may be required for their understanding. Each document required to be maintained, prepared, filed or submitted under the provisions of this chapter or pursuant to it, except those required and designated confidential by the Federal Communications Commission or other public law or regulation is a public document, available for public inspection and copying at the requestor's expense, at the office of the grantee or the city during normal business hours. The charge for such copying shall approximate the cost of mechanical reproduction and shall not include a charge for labor. Grantee shall strictly adhere to the equal employment opportunity requirements of federal, state and local regulations, as may be applicable, and as amended from time to time.

### **10.49 BOOKS, RECORDS, AND REPORTS**

**10.49.01 Books, Records, Reports Available to Grantor:** The grantee shall maintain a local office within Okaloosa County. If any of the materials or records described in this chapter are not kept in the Okaloosa County, or upon reasonable request made available in the city, and if the city shall determine that an examination of such materials is necessary or appropriate to the performance of any of its duties, then all travel and other expenses necessarily incurred in making such examination shall be paid by grantee.

**10.49.02 Required Reports:** The grantee shall file the following reports with the cable communication office:

- (1) All reports required by the Federal Communications Commission (FCC) including, but not limited to any annual proof of performance tests and results, Equal Employment Opportunity (EEO) reports, and all petitions, applications and communications of all types submitted by grantee to the FCC, the Security and Exchange Commission (SEC), or any other federal or state regulatory commission or agency, having jurisdiction over any matter affecting operation of grantee's system shall be made available to the city upon request and submitted to the city by delivery to the city manager who shall advise interested city departments of such filing.
- (2) An annual report setting forth the physical miles of plant construction and plant in operation during the fiscal year shall be submitted to the city. Such report shall also contain any revisions to the system "as built" maps filed with the city. The annual report shall be provided in February.
- (3) Upon request by the city, reports shall be sent to the city bi-monthly after the franchise is awarded for any construction undertaken during the term of the franchise until construction is complete, including any rebuild that may be specified in the franchise.
- (4) Proof of performance test results shall be supplied to the city upon request when sections of the system are rebuilt and annually as required in this chapter.
- (5) Notification of any change in programming or service shall be provided to the city, in writing, 30 days prior to implementation.
- (6) The grantee's schedule of charges, contract or application forms of regular subscriber service policy regarding the processing of subscriber complaints, delinquent subscriber disconnect and reconnect procedures and any other terms and conditions adopted as the grantee's policy in connection with its subscribers shall be filed with the city and be available upon request at the

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grantee's local office. All such terms and conditions, including schedule of charges, must have been filed with the city prior to their becoming effective. Such rules, regulations, terms and conditions shall not be in conflict with the provisions hereof or applicable state and federal laws, rules or regulations.

- (7) Grantee shall submit to the city the required performance bond, or a certified copy thereof, and written evidence of payment of required premium, and all policies of insurance required by this chapter, or certificates, in a form acceptable to the city, evidencing that such policies are in effect.

**10.49.03 Financial Reports:** The following financial reports for the franchise area shall be submitted annually to the city 90 days after the end of the grantee's fiscal year:

- (1) An ownership report, indicating all persons, who at any time during the preceding year did control or benefit from an interest in the franchise of 25 percent or more. Once an initial report is submitted, subsequent reports need only be submitted for years in which the list of such persons has changed from the preceding year.
- (2) An annual financial statement certified by the chief financial officer of the grantee of revenue received during the previous calendar year prepared in accordance with generally accepted accounting principles.
- (3) An annual list of officers and members of the board of directors of grantee and of any parent corporation.

**10.49.04 Operational Reports:** The following system and operational reports shall be submitted upon request to the city: an annual summary of complaints received and handled in addition to any reports required in the franchise; an annual projection of system and service plans for the future.

**10.49.05 Additional Reports:** The grantee shall prepare and furnish to the city at the times and in the form prescribed, such additional reports with respect to its operation, affairs, transactions or property, as may be reasonable necessary and appropriate to the performance of any of the rights, functions or duties of the city in connection with this chapter or the franchise.

**10.49.06 Required Records:** The grantee shall at all times maintain a record of all complaints received and interruptions or degradation of service experience for the preceding period prior to a performance review; a full and complete set of plans, records and "as built" maps showing the exact location of all cable communication system equipment installed or in use in the city, exclusive of subscriber service drops; subscriber account records for the two prior calendar years. The city may impose reasonable requests for additional information, records and documents from time to time.

**10.49.07 Miscellaneous Provisions:** Minimum public notice of any public meeting relating to this chapter or the franchise shall be governed by local law.

**10.49.071 Notice of Bids for Franchise Applications:** Invitation of applications for a franchise, public notice of "request for proposals". The city may invite applications for a cable communications franchise in accordance with applicable law by means of a public notice advertising the availability of its "request for proposals". The public notice shall contain, but need not be limited to, a description of the franchise area which is sought; a statement that a formal "request for proposals" is available to prospective applicants from a city official whose name, address, and telephone number are specified; a statement that applications for the franchise must be submitted in writing in the form and manner

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specified in the "request for proposals" no later than a day certain; a statement that all applications will be made available for public inspection during normal business hours at a specified location.

**10.49.072 Request for proposals:** Prior to inviting applications for any cable services franchise, the city shall prepare a "request for proposals" that shall contain, but need not be limited to, the following:

- (1) A description of the cable system and services desired by the city including any system specifications established by the city.
- (2) A statement specifying the form that all applications shall follow.
- (3) A statement indicating the amount of the application fee (if any) to be submitted with the application, and the manner in which such fee is to be submitted.
- (4) A statement that all applications must contain the information required by the "request for proposal".
- (5) The closing date for the submission of applications.
- (6) The name, address, and telephone number of the city official(s) who may be contacted for further information.

**10.49.073 Public Hearing on Notice:** The city shall conduct a public hearing prior to awarding any cable television franchise. The hearing shall be preceded by reasonable notice to each of the franchise applicants and to the public, and shall be conducted by the city council in accordance with the following procedures. There shall be an agenda for the hearing which shall specify the proposal(s) to be considered at the hearing. Every person who has applied for a cable television franchise shall appear at the hearing either in person or by authorized representative. The application of any applicant not so appearing shall not be further considered, except for good cause shown. All persons shall be given opportunity to participate in the hearing, but nothing contained herein shall limit the power of the presiding officer to establish reasonable time limits and otherwise limit repetitive statements or questions. The notice of hearing shall conform to all relevant state and local laws and ordinances, describe the agenda to be considered at the public hearing, and indicate that copies of all franchise applications are available for public inspection during normal business hours at a place to be specified in the notice.

**10.49.074 Right to Reject:** The city, at its discretion, may reject any application for a franchise.

**10.49.08 Failure to Require Performance Not a Waiver:** The failure of the city at any time to require performance by the franchisee of any provision hereof shall not affect the right of the city thereafter to enforce same; nor shall waiver by the city of any breach of any provision hereof be taken or held to be a waiver of any succeeding breach or as a waiver of any provision itself.

**10.49.09 Severability:** If any section, subsection, sentence, clause or phrase of this chapter for any reason is held invalid or unconstitutional by the decision of any court of competent jurisdiction or the FCC, such decision shall not affect the validity of the remaining portions thereof. The invalidity of any portion of this chapter shall not abate, reduce or otherwise affect any consideration or other obligation by the franchisee of the franchise granted hereunder; provided, however, that the city may amend those provisions invalidated.

**10.49.10 Compliance with Laws:** Franchisee shall conduct operations under this chapter in compliance with all applicable laws and regulatory standards.

## 10.50 MUNICIPAL WATER SUPPLY AND DISTRIBUTION SYSTEM

**10.50.01 Cooperation with Northwest Florida Water Management District:** The city will coordinate with the Northwest Florida Water Management District to establish water conservation strategies and techniques designed to preclude emergency water shortages. The city will adopt procedures for emergency water conservation in accordance with the plans of the Northwest Florida Water Management District. In cooperation with the NFWFMD, the city shall implement any emergency water conservation plans necessary to protect water sources during periods of insufficient supply within the Floridan Aquifer.

**10.50.02 Areas of Water Resources Concern:** Pursuant to F.A.C. 40A-2.801, an area of water resources concern may be established by the Northwest Florida Water Management District to protect the area's water resources from depletion, saltwater intrusion or induced contamination, or from any other activity which may substantially affect the quality or quantity of the area's water resources. Within such areas, the NFWFMD may establish lower permit thresholds, establish management and minimum levels, and stipulate any limiting conditions as necessary to monitor, manage, and control the use of water. The city shall cooperate with the NFWFMD in its establishment of any areas of water resources concerns which may impact the corporate limits of the city. Should an area be declared an area of water resources concern pursuant to F.A.C. 40.A-2.801, the city should follow the provisions within F.A.C. 40A-2.802 in order to provide for regulatory provisions to protect the quality and quantity of groundwater serving the city.

**10.51.01 Connections; Permit Required:** No person, unless properly authorized by written permission from the director of public works, shall tap or make any connection to the mains, distribution system or water pipes of the city water system.

**10.51.02 Application for Service:** Application for water and sewer service shall be made in the city hall upon an application form provided by the city. The applicant shall furnish a description of the property to which service is requested.

**10.51.03 Authority to Turn On; Testing:** No person, except duly authorized members of the water division, shall turn on water without written permission to do so from the superintendent of the water division, the director of utilities, or the city manager. No licensed plumber shall turn on water for any owner except for the purpose of testing his or her work, service pipe or fixture. After testing these, he shall immediately turn off the water.

**10.51.04 Connection Required Where Service Available:** No property owner and/or user of developed property shall fail to connect to the city water system when city water is available to the property, and no occupant of any structure shall occupy such structure without city water running thereto for drinking and sanitation purposes.

**10.51.05 Connection Fees:** Connection fees shall be paid for connecting into any and all city water mains, which fees shall cover the cost of bringing city water service to the property line of the private property to which such service is requested or required. Such fees shall be established by the city council by resolution, in the general fee schedule, with the following additional requirements.

- (1) An additional connection fee shall be charged when the cost of extending the water line exceeds the established fee per lot.
- (2) Where more than one unit is constructed on a lot or parcel, the connection fee shall be per unit for service to the property line.

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- (3) Upon application for service, the developer or customer shall place into escrow an amount equal to the total connection fee for the number of services required or provide other financial arrangements acceptable to the city, which amount shall be paid to the city upon completion of construction. When notification has been received by the city that such amounts have been placed in escrow or other financial arrangements have been accepted by the city, the city will prepare a detailed estimate of normal cost from the city's existing system to the property line of the new customer to be served, exclusive of the cost of any oversizing of lines required by the city to serve other future customers. To the extent that such estimated normal cost to provide and extend service exceeds the amount placed in escrow or the financial arrangements accepted by the city representing connection fees, the developer or customer shall, prior to the start of construction, place an additional amount in escrow or furnish a method of financing acceptable to the city and equal to the estimated excess construction cost, if any, less any credit as established in the fee schedule, for a residential water customer. Upon completion of construction, there will be transferred from the escrow accounts or payment from other sources which have been accepted by the city, to the city, the total amount of the required connection fees plus the total amount of excess construction costs placed on deposit or committed by the developer or customer. The water line extension policy shall be that the customer or developer shall pay all costs of extension less the fee for residential water customers, but shall not pay less than the established connection fees.
- (4) Fraternal or charitable organizations receiving their principal income from donations shall have a reduced connection fee for a three-quarter inch line.

**10.51.06 Meters Required:** Each individually owned or operated business or commercial establishment which is housed in a building that is separated by a partition wall from an adjacent business and is directly accessible to the public from the outside, will be required to have a separate water meter. Business or commercial establishments that fit the description in this section on the effective date of this section will be billed as if they were on a separate meter by taking the total consumption and dividing the consumption by the number of businesses to arrive at the average water consumption. The average water consumption rate or charge will be multiplied by the number of businesses to arrive at the total monthly charge. All new connections, including new construction, shall be placed on a meter basis after final inspection.

**10.51.07 Utility Deposits:** Minimum utility deposits shall be established by the city council by resolution in the general fee schedule. If any utility service of a resident should be discontinued due to nonpayment two times within a 12-month period, an additional deposit equal to one month's average billing rounded up to the nearest \$5.00 will be required prior to resumption of service. Deposits collected will be refunded on all accounts that have remained current in their payments for a period of 24 consecutive months. The deposit refund will be applied to the utility bill(s). Deposits for businesses shall not exceed three times the estimated bill as determined from the published water, sewer and garbage rates schedules, or \$75.00, whichever is greater.

**10.51.08 Payment Prior to Connection:** In all cases, the applicable connection fees shall be paid to the city before connection is made, and the city shall make the connection at its cost.

**10.51.09 Construction Water:** Construction water is defined as water used by a contractor in the construction of a building or structure. A meter will be installed for the purpose of metering the amount of construction water used during a construction period. A deposit of \$35.00 will be collected prior to the installation of the meter.

**10.51.10 Liability for Meter Damage:** The person in possession or custody of real property in the city

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shall be liable for damage to any water meter located thereon where the meter has been negligently or willfully damaged. Upon failure of such person to pay for the damage or replacement of the water meter, he shall be subject to prosecution.

**10.51.11 Irrigation Purposes:** Installation of taps for irrigation purposes will require an installation fee based on the size of the water tap, when it is necessary to cut any paved surface, if a larger tap is requested, and when a second meter is installed. No bill will be prepared during the month when water usage is less than 1,000 gallons. Bills will be prepared on a usage basis and will be sent out after at least 1,000 gallons pass through the meter.

**10.51.12 Discontinuance; Minimum Bill:** After receipt of a meter deposit and after the water has been turned on for customer use, if the customer requests that the water be discontinued prior to occupancy, a minimum charge will be paid. A fee will be charged for requests to turn on and turn off the water prior to extended occupancy for purposes of cleaning, alteration or repair. A bill for consumption or a minimum bill for the meter size shall be prepared. Service shall be provided for a maximum of ten days.

**10.51.13 Use After Discontinuance Prohibited:** No person shall use city water after such water has been turned off by the city. In the case of a violation of this section, the person in possession of the premises shall be deemed to be the violator.

**10.51.14 Maintenance of Laterals:** The applicant, user or owner of the property serviced by the city water service shall be responsible for maintaining the water pipes between the plumbing fixtures on the property and the property line or water meter in good operating condition and free from all internal obstructions.

**10.51.15 Water Saving Devices:** When undertaking new construction or renovation of an existing structure, water conservation devices such as water saving water closets and flow restricting shower heads and faucets shall be installed. No tank type water closet shall be installed with water usage in excess of 3 1/2 gallons upon each flush. No shower head or faucet shall be installed which allows a flow of more than an average of three gallons per minute at 60 pounds of pressure per square inch.

**10.51.16 Obstructing Meters; Right of Entry:** No person shall obstruct, cover up or hide any water meter or any water indicating or recording device so that the inspector or meter reader or other employee of the city cannot find or reach such meter or device. Employees of the finance or utilities departments have the right to enter upon premises where city water is used for the purpose of inspecting city pipes, settings, reading and repairing meters, turning water service off or on and enforcing the ordinances and rules of the city, or regulating water service in any manner necessary. If any water user, whether owner or tenant, should refuse to allow entrance by any lawful agent of the city upon any premises for the purposes herein stated, the water may be shut off from such premises pending compliance with the requirements of this section. The city is authorized to take action (e.g. tow and impound an obstructing vehicle) to allow city employees access to a water meter, and the costs of any affirmative action required by the city shall be assessed against and included as a cost of service in the user's water bill.

### **10.511 INAPPROPRIATE DISCHARGE DETECTION AND ELIMINATION INTO STORMWATER SYSTEM**

**10.511.01 Purpose, Intent:** The purpose of this chapter is to provide for the health, safety, and general welfare of the citizens of the City of Fort Walton Beach through the regulation of nonstormwater discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. This chapter establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) to comply with requirements of the National Pollutant

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Discharge Elimination System (NPDES) permit process. The objectives of this chapter are to regulate the contribution of pollutants to the MS4 by stormwater discharges by any user, prohibit unpermitted connections and discharges to the MS4, to establish legal authority to carry out all inspection, surveillance, monitoring, and enforcement procedures necessary to ensure compliance with this chapter.

**10.511.02 Definitions:** The following terms shall have the stated meanings for the purpose of this chapter:

**Best management practices (BMPs).** Schedules of activities, prohibitions of practices, general good house keeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage, as established by the city.

**Clean Water Act.** The federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), as amended.

**Hazardous materials.** Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

**Inappropriate discharge.** Any direct or indirect nonstormwater discharge to the storm drain system.

**Unpermitted connections.** An unpermitted connection is defined as any drain or conveyance, whether on the surface or subsurface, that allows an inappropriate discharge to enter the storm drain system, including but not limited to, any conveyances that allow any nonstormwater discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection was previously allowed, permitted, or approved by an authorized enforcement agency, prior to the adoption of this chapter (Ordinance No. 1720), or any drain or conveyance connected from a commercial or industrial land use to the storm drain system that has not been documented in plans, maps, or equivalent records and approved by an enforcement agency.

**Industrial activity.** Activities subject to NPDES Industrial Stormwater Permits as defined in 40 CFR, Section 122.26(b)(14).

**Municipal separate storm sewer system (MS4).** The system of conveyances, including sidewalks, roads with drainage systems, streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains, owned and operated by the City of Fort Walton Beach and designed or used for collecting or conveying stormwater, but not used for collecting or conveying sanitary sewage.

**National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Permit.** A permit issued by the United States Environmental Protection Agency, or by a state under authority delegated pursuant to 33 USC § 1342(b), that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

**Nonstormwater discharge.** Any discharge to the storm drain system that is not composed entirely of storm water.

**Pollutant.** Anything which causes or contributes to pollution. Pollutants may include, but are not

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limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

**Storm drainage system.** Publicly-owned facilities by which stormwater is collected and/or conveyed, including but not limited to: any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

**Stormwater.** Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

**Stormwater management plan.** A document which describes the best management practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to stormwater, stormwater conveyance systems, and/or receiving waters to the maximum extent practicable.

**Wastewater.** For purposes of this chapter, any water or other liquid, other than uncontaminated stormwater, discharged from a facility.

**10.511.03 Discharge Prohibitions:** The commencement, conduct or continuance of any unauthorized discharge to the storm drain system is prohibited. Therefore, no person shall throw, drain, or otherwise discharge, cause, or allow others under its control to throw, drain, or otherwise discharge into the MS4 any pollutants or waters containing any pollutants. The following discharges are exempt from this chapter:

- (a) Water line flushing, landscape irrigation, diverted stream flows, rising ground waters, uncontaminated ground water infiltration, uncontaminated pumped ground water, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space pumps, footing drains, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges, and street wash water.
- (b) Discharges or flow from firefighting and other discharges specified in writing by the City of Fort Walton Beach as being necessary to protect public health and safety.
- (c) Discharges associated with dye testing after a verbal notification to the City of Fort Walton Beach prior to the time of the test.
- (d) Any nonstormwater discharge permitted under a NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Florida Department of Environmental Protection or the United States Environmental Protection Agency (EPA), provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.

**10.511.04 Prohibition of Unpermitted Connections:** The construction, use, maintenance, or continued existence of unpermitted connections to the storm drain system is prohibited. This prohibition expressly

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includes, without limitation, unpermitted connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

**10.511.041:** It is a violation of this chapter if a person connects a line conveying sewage to the MS4 or allows such a connection to continue.

**10.511.042:** Inappropriate connections in violation of this chapter must be disconnected and redirected, if necessary, to an approved onsite wastewater management system or the sanitary sewer system upon approval of the City of Fort Walton Beach.

**10.511.043:** Upon receipt of written notice of violation from the City of Fort Walton Beach and within a reasonable time period, the owner of property subject to the violation shall locate and identify any drain or conveyance that has not been documented in plans, maps, or equivalent, that is connected to the storm sewer system, to include any outfall location or point of connection to the storm sewer system, sanitary sewer system or other discharge point, and provide such documentation of the location and identification to the city.

**10.511.05 Watercourse Protection:** Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

**10.511.06 Industrial or Construction Activity Discharges:** The operator of any facility required to have an industrial or construction activity NPDES stormwater discharge permit shall submit a copy of the Notice of Intent (NOI) to the city along with the required Stormwater Pollution Prevention Plan at the same time the operator submits the original Notice of Intent to the FDEP or EPA, as applicable. Any person subject to such permit shall comply with all provisions of the permit and provide proof of compliance to the city prior to any discharge into the MS4. It shall be considered a violation of this chapter if a person subject to such permit does not submit a copy of the Notice of Intent or proof of compliance with the permit to the city prior to any discharge. The copy of the Notice of Intent and Stormwater Pollution Prevention Plan may be hand-delivered or mailed to the city at:

Notice of Intent to Discharge Stormwater

Attn: Environmental Specialist

City of Fort Walton Beach

P.O. Box 4009

Fort Walton Beach, FL. 32549

**10.511.07 Compliance Monitoring:** The owner of facilities subject to regulation under this chapter shall allow the city to enter and inspect as often as may be necessary to determine compliance at the facility with the provisions of this chapter. Unreasonable delays in allowing or refusal to allow the city to access a permitted facility is a violation of a stormwater discharge permit and of this chapter. All owners of regulated facilities shall:

- (a) Make the necessary arrangements to allow access to the city if there are security measures in

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force at the facility which require proper identification and clearance;

- (b) Allow the city ready access to all parts of the premises for the purposes of inspection, sampling, examination, and copying of records that must be kept under the conditions of an NPDES permit, and the performance of any additional duties as defined by state and federal law;
- (c) Allow the city to set up on any permitted facility such devices necessary, in the sole discretion of the city, to conduct monitoring and sampling of the facility's stormwater discharge.
- (d) Install monitoring equipment as required by the city;
- (e) Maintain all sampling and monitoring equipment in a safe and proper operating condition at the operator's expense, to include the calibration of equipment to measure stormwater flow and quality;
- (f) Remove and keep clear, at the operator's expense, any temporary or permanent obstruction to safe and easy access to the facility upon the written or oral request of the city.

**10.511.08 Search Warrant for Compliance Monitoring:** If an owner or operator of a facility subject to the provisions of this chapter refuses access to the city of any part of the premises. The city may apply for the issuance of a search warrant from any court of competent jurisdiction. The city must demonstrate probable cause that there may be a violation of this chapter or a need to inspect and sample discharge from the facility to verify compliance with this chapter or to protect the overall public health, safety, and welfare of the community.

**10.511.09 Use of Best Management Practices:** The city shall adopt and identify best management practices for any activity, operation, or facility which may cause or contribute to pollution or contamination of stormwater, the storm drain system, or waters of the United States. The owner or operator of such activity, operation, or facility shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of these structural and non-structural BMPs. Further, any person responsible for a property or premise that is, or may be, the source of an unpermitted discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the MS4. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliant with the provisions of this section. These BMPs shall be part of a stormwater management plan (SWMP) as necessary for compliance with requirements of the NPDES permit.

**10.511.10 Notification of Spills:** Any person responsible for a facility or operation or responsible for emergency response for a facility or operation who becomes aware of or receives information of any known or suspected release of materials that result or may result in unauthorized discharges or pollutants discharging into stormwater, the storm drain system, or waters of the United States, shall take all necessary steps, pursuant to the city's BMPs, to discover, contain, and cleanup such discharge. In the event of such a discharge of hazardous materials, said person shall immediately notify the appropriate emergency response agencies via emergency dispatch services.

In the event of a release of non-hazardous materials, said person shall notify the city in person or by phone or facsimile no later than 5:00 p.m. on the next business day. If notification is made in person or by phone, the person responsible for the facility or operation shall confirm that notification by sending a written notice addressed and mailed to the City of Fort Walton Beach within seven business days of the phone or in person notice.

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If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least five years.

**10.511.11 Violations, Enforcement, Penalties:** It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this chapter. Violations of the provisions of this chapter may be enforced pursuant to Chapter 1.8 of the Code, or otherwise as provided by law.

However, any condition caused or permitted to exist in violation of any provision of this chapter may also be deemed a threat to public health, safety, and welfare, and declared a public nuisance. If any condition is deemed and declared a public nuisance, the city shall abate, enjoin, suspend MS4 discharge access, or otherwise compel the cessation of such nuisance pursuant to Chapter 5.05 of the code.

The remedies listed in this chapter are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the City of Fort Walton Beach to seek cumulative remedies.

### 10.52 RATES & CHARGES

**10.52.01 Increases for Tax Purposes:** The rates and charges set forth in this division shall be subject to proportional increases to compensate for any existing tax or any applicable new taxes, which may hereinafter be imposed by any state or federal taxing body.

**10.52.02 Bases of Minimum Charges:** Minimum monthly residential and commercial charges for water service shall be established by the city council by resolution, in the general fee schedule. To further clarify, any residential or multiple residential meter up to two inches in size has a minimum water charge the same as a three-quarter-inch meter. Any residential or multiple residential unit using a meter above two inches in size will be charged by meter size as listed under the commercial heading.

**10.52.03 Authority to Establish Fee Schedule:** The city council by resolution in the general fee schedule shall establish charges and fees for water and service supplied by the city. Such charges shall be charged to all users of the service unless otherwise excepted.

**10.52.04 Bases of Monthly Charges for Water Supply:** The charges shall be based on the minimum fee, plus any consumption over 2,000 gallons. A minimum monthly fee, which includes the first 2,000 gallons of usage per month, shall be charged according to the size of meter and type of use. The consumption fee shall be based on the use of water over 2,000 gallons per month. For multiple residential units that are connected to a single meter, a minimum bill shall be established for the first unit, plus an additional amount for each additional unit. The minimum water usage will be the number of units times 2,000 gallons of water. Hotel and motel units shall be billed based on the commercial schedule of the minimum fee, plus consumption.

### 10.521 STORMWATER MANAGEMENT UTILITY

**10.521.00 Intent:** It is the intent of this chapter that the city will establish a stormwater management program pursuant to § 403.0891, F.S., and a stormwater management as a city utility enterprise in accordance with § 403.0893, F.S. The city shall establish user fees for stormwater management service to be charged to all developed properties within the city that contributes stormwater runoff to the city's stormwater management systems to accomplish the functions of such utility. These functions include, but are not limited to, maintenance, planning, design, construction, regulation, surveying, and inspection as they relate to stormwater management facilities of the city.

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**10.521.01 Definitions:** For the purposes of this chapter, the following terms shall have the meaning set forth:

**Best management practices (BMPs).** The schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the United States. BMPs also include treatment requirements, operating procedures, and practices to control facility site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

**Commercial property.** Any property designated as a commercial or multi-commercial property in the city's utility billing system. This includes any other property not designated as residential property.

**Equivalent residential unit (ERU).** A reference from which an equitable distribution of the cost of services and facilities can be made among all properties in the city through a stormwater management service charge rate methodology. The equivalent residential unit in the city for the purpose of service charge ratemaking has been determined through engineering analysis to be a gross area of 3,200 square feet of effective impervious area.

**Impervious areas.** Surfaces which have been compacted or covered with a layer of material which is highly resistant to infiltration by water, such as roofed and paved areas, including, but not limited to, areas covered by roofs, roof extensions, slabs, patios, porches, driveways, sidewalks, parking areas and athletic areas.

**Lot.** A parcel of land shown on a recorded plat or on the Okaloosa County Property Appraiser's maps, or any piece of land described by deed and recorded in the Public Records of Okaloosa County, Florida.

**Municipal separate storm sewer system (MS4).** A conveyance, storage area or system of conveyances and storage areas (including, but not limited to, stormwater sewers, inlets, manholes, catch basins, drainage facilities, curbs and gutters, roadways, culverts, channels, conduits, drainage ditches, drains, swales, washes, gullies, ravines, canals, streams, creeks, rivers, waterways, waters of the state, floodways, floodplains, wetlands, lakes, ponds (natural or artificial), reservoirs, stormwater management facilities, stormwater detention ponds, stormwater retention ponds, sediment settling ponds, and other structural BMPs, and right-of-way or easements for any of the preceding) owned or operated by local government that discharges to waters of the United States or other MS4s, that is designed solely for collecting, treating or conveying stormwater, and that is not part of a publicly owned treatment works (POTW) as defined in 40 United States Code of Federal Regulations (CFR) 122.2, or amendments thereto.

**NPDES.** The National Pollutant Discharge Elimination System defined in 40 CFR 122.2.

**NPDES permit.** The permit numbered FLR 04E061, issued to the City by the Florida Department of Environmental Protection, as it may be amended or supplemented from time to time in the future, and successor permits.

**Pollutant.** Dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials (except those regulated under the Atomic Energy Act of 1954, as amended, 42 USC 2011 et seq.), heat, wrecked or damaged equipment, rock, sand, or industrial, municipal and agricultural waste discharged into the MS4.

**Property owner.** The person who has fee ownership, dominion, or title of real property. This term may also include a tenant and any agent of the owner or tenant, including the developer.

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**Residential property.** Any property designated or currently used as a residential or multi-residential property in the city's utility billing system. This includes single-family dwellings, apartments, town homes, and condominiums.

**Runoff.** The surface flow of water, which results from, and occurs following, a rainfall event.

**10.521.02 Stormwater Management Program:** The city hereby directs the city manager to develop and implement a stormwater management program. The stormwater management program shall be instituted within the incorporated areas of the city to plan, design, construct, maintain, and manage stormwater operations and improvements. The objectives of such program shall be to:

- (a) Establish a stormwater management program mutually compatible with those developed by the Florida Department of Environmental Protection, the Northwest Florida Water Management District, and other local governmental entities;
- (b) Develop a city-wide stormwater management program responsible for the construction, operation, and maintenance of stormwater devices; for stormwater system planning; for review of development plans for compliance with stormwater management codes; and for surface water quality management;
- (c) Recommend stormwater utility user fees sufficient to plan, construct, operate, and maintain stormwater management systems;
- (d) Recommend the establishment and setting aside, as a continuing source of revenue, other funds sufficient to plan, construct, operate, and maintain the City's stormwater management systems;
- (e) Protect, restore, and maintain the chemical, physical, and biological integrity of community waters;
- (f) Assist in preventing individuals, business organizations, and governments from causing harm to the community, by activities which adversely affect water resources;
- (g) Encourage the construction of drainage systems which aesthetically and functionally approximate natural systems;
- (h) Encourage the protection of natural systems, and the use of such natural systems in ways which do not impair their beneficial functioning;
- (i) Encourage the use of drainage systems which minimize the consumption of electrical energy, or petroleum fuels, in order to move water, remove pollutants, and maintain said systems;
- (j) Minimize the transport of pollutants to community waters;
- (k) Maintain or restore groundwater levels;
- (l) Protect, maintain, or to restore natural salinity levels in estuarine areas;
- (m) Minimize erosion and sedimentation;
- (n) Prevent damage to wetlands;
- (o) Prevent damage from flooding, while recognizing the natural fluctuations in water levels are

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beneficial;

- (p) Protect, restore, and maintain the habitat of fish and wildlife;
- (q) Ensure the attainment of these objectives by requiring the approval and implementation of a Stormwater Management Program for all activities adversely impacting community waters;
- (r) Ensure cooperative efforts toward joint development of compatible and efficient stormwater management programs in adjacent jurisdictions;
- (s) Ensure the City's compliance with all requirements of the NPDES permit.

**10.521.03 Stormwater Management Utility User Fee:** There is hereby created a stormwater management utility user fee to be charged for the provision of stormwater management services to properties with impervious surfaces and developed properties with improvements or uses that contribute stormwater runoff to the city's stormwater management systems. Such user fees shall be used only to accomplish the functions of the stormwater management program and utility. Such user fees shall be a monthly fee as established by a separate resolution and set forth in the comprehensive fee schedule, in accordance with the following methodology.

- (a) **Residential property.** Each residential property or unit, including any single-family dwelling or unit, of any kind, within a multi-family development, shall be considered one (1) ERU for billing purposes. Monthly service charges for each residential property shall be identical and billed according to the water meter assigned to the unit.
- (b) **Commercial properties.** Commercial properties shall be charged a user fee equivalent to the following formula: Base ERU = Total impervious surface on property divided by the residential ERU of 3,200 or one (1) ERU, whichever is greater.

**10.521.04 Exemptions:** City-owned lots or parcels, except those leased to any entity that is required to pay utilities for the leased premises, public road rights-of-ways, vacant lots or parcels, and undeveloped lots or parcels shall be classified as exempt from stormwater utility user fees.

**10.521.05 Right of Refusal to Connect to Utility; Procedures:** Any property owner responsible for paying the stormwater user fee, who chooses not to use stormwater management program services, may elect to develop their property in a manner that retains all run-off on-site and prevents discharge to the city's stormwater infrastructure. The property owner must verify retention of all stormwater on-site by submitting, for review and approval by the city, certified engineering drawings and calculations demonstrating that one hundred (100) percent of the total volume of runoff from the property will be retained within the property. The engineering calculations shall be based on runoff volumes from the one-hundred-year frequency rainfall event, for the following durations: one (1), two (2), four (4), eight (8) and twenty-four (24) hours and one (1), two (2), three (3), four (4), seven (7) and ten (10) days.

**10.521.06 Mitigation Credits:** Stormwater fee credits of up to fifty percent (50%) may be given to developed properties, demonstrating stormwater control and management facilities which generate less volume of runoff and apply best management practices (BMPs) to improve surface water quality. The amount of each available credit shall be adopted by separate resolution and set forth in the city's

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comprehensive fee schedule. Credits will be awarded on a four-year basis and each property owner must reestablish the right to a credit every four (4) years. A property owner may apply for a credit by submitting an application for credit, on a form approved by the city manager, along with certified engineering drawings and calculations sufficient enough to evaluate a claim for credit.

**10.521.07 Collection of Fees:** Stormwater utility fees shall be collected and enforced in the same manner that water, wastewater, and solid waste fees are collected and enforced. Failure to timely pay the monthly stormwater utility fees will result in the termination of water service and may also result in the disconnection of stormwater management service(s) to the subject property in accordance with section 10.53.02, of the City's Code, as amended. The city may, at its discretion, submit a separate notice to a property owner of the annual stormwater utility fees imposed on that owner's property if such notice will facilitate the billing and collection of imposed fees.

**10.521.08 Stormwater Utility Fund:** There shall be established a stormwater utility fund for the deposit of all fees collected pursuant to this ordinance for the stormwater management program. The stormwater utility fund shall be used exclusively to provide services and facilities related to the stormwater management program and for the following expenditures: operation or maintenance of stormwater management facilities; costs for the planning, evaluation, design, construction, and management of the stormwater management program; administrative costs related to the management of the stormwater management program; management services, such as permit review and planning and development review related to the stormwater management program; debt service financing of capital improvements related to the stormwater management program.

**10.521.09 Inspection, Compliance, and Enforcement:** The city's code inspectors and other city staff as required, upon presentation of proper identification, shall be granted access for inspection of facilities, structures, or properties, discharging or suspected of discharging to the city's MS4 or waters of the United States in order to effectuate the provisions of this ordinance, investigate violations or complaints of potential violations of the terms of this ordinance, and to collect samples for review and analysis. All structures and processes which allow discharges to the city's MS4, as well as records concerning them, shall be made accessible to authorized personnel for this purpose.

### 10.53 BILLING PROCEDURES

**10.53.01 Initial Billing:** After the meter deposit has been made with the city and service has been provided, a prorated minimum consumption bill based on the actual days of service will be sent for the initial bill. The final bill will be prorated based on the number of days of service from the last reading date to the day the services are terminated.

**10.53.02 Disconnection for Nonpayment:** Water will be shut off after 30 days from the date of the bill for nonpayment of charges, in accordance with § 180.13, F. S.

**10.53.03 Delinquency; Discontinuance of Service:** Each occupant of property in the city using city water shall pay to the city a fee on an account that has not been paid by the due date or upon failure to put up a deposit. Water service will be discontinued to any place having a 30-day delinquent bill or upon failure of a customer to make the appropriate deposit. The service charge is due after 9:00 a.m., 30 days from the date of the bill. Further, an additional service charge shall apply, payable in advance, for a broken meter lock, a pulled meter, straight lock up, water turned on after hours, and to recheck cutoff (water restored without payment).

**10.53.04 Final billing:** A final bill will be computed upon the period of time a customer occupies a building after the last regular monthly meter reading. If 15 days or less has passed since this reading, a

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minimum charge, or consumption for water only, whichever is greater, shall be made. If more than 15 days have passed since this reading, a minimum charge for all utilities (sewer, water and garbage service) or consumption, whichever is greater, shall be made. A final bill will be computed on the basis of a minimum bill or consumption, whichever is higher, regardless of the time period between the last meter reading and termination of service. Any outstanding amount at the time of final billing will be deducted from the meter deposit on file. Should the amount due be less than the amount of the deposit, a refund will be made to the customer. Any amount due over the amount of the deposit will be billed.

**10.53.05 Payment of Other Charges; Delinquency, Surcharges:** The charges for the refuse and recyclable materials services provided shall be paid monthly to the city, and the city is hereby authorized to include such charges on the regular monthly statements for water and sewage service. Upon failure to pay such bill within 12 days after the billing date, a surcharge of five percent of the total amount of such bill shall be added to the bill. Upon failure to pay the bill in full, together with any applicable surcharge, within 30 days from the billing date, all public services shall be discontinued until all required payments are made in full, plus applicable service fees, deposits and/or surcharges as may be otherwise provided.

### 10.54 WATER AND WASTEWATER IMPACT FEES

**10.54.01 Purpose:** The purpose of this chapter is to assign growth related costs to those customers responsible for such additional costs and to ensure the costs to provide such services are borne by the new users of the water and wastewater systems.

**10.54.02 Definitions:** When used in this chapter, the following terms shall be defined to mean:

1. **Applicant** means the owner of real property or the person or legal entity which has the legal right to utilize real property by means of any form of ownership which real property the applicant desires to be served by water and/or wastewater service.
2. **City** means the City of Fort Walton Beach, Okaloosa County, Florida, a municipal corporation of the State of Florida.
3. **Collection facilities** means the lines, pipes and appurtenant equipment and all other related equipment or facilities, or whatever type or nature, used to collect sewage from sewer facilities, buildings, structures or facilities and to transmit it to wastewater treatment facilities.
4. **Contribution in aid of construction** means the transfer in ownership of water system and/or wastewater system assets from a customer to the city. Such contribution may make the customer eligible for exemption as discussed in section 10.54.3.
5. **Council or city council** means the City Council of the City of Fort Walton Beach, Florida.
6. **Customer** means any person, firm or corporation who receives water and/or wastewater service from the City and who is liable for payment of such service/services.
7. **Customer capacity** means the total water and/or wastewater service capacity allocated to a customer of the water and/or wastewater system.
8. **Customer installations** means all water and/or wastewater facilities which ordinarily and customarily exist on the customer's side of the point of delivery, such as, by way of example and not limitation, curb stops and lateral connections.

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9. **Distribution facilities** means the lines, pipes, meters, and appurtenant equipment and any other related equipment or facility, or whatever type or nature, used to distribute water from the utility to the customer for usage.
10. **Dwelling** means a single unit providing complete, independent living facilities for one family, including permanent provisions for living, sleeping, eating, cooking and sanitation.
11. **Dwelling Unit** means one or more rooms in a residential building, which are used or intended for use as an independent living facility for one family including permanent provisions for living, sleeping, eating, cooking and sanitation.
12. **Equivalent Residential Connection** or **ERC** means a factor used to convert a given average daily flow (ADF) to the equivalent number of residential connections. For this purpose the ADF of one ERC is deemed to be 350 gallons per day (gpd) for water service and 300 gpd for wastewater service.
13. **Gallons per day** or **GPD** means gallons per day.
14. **Meter** means a device used to measure water delivered to a "point of delivery" by the city.
15. **Point of delivery** means the designated point at which the applicant's property is connected to the water and/or wastewater facilities.
16. **Property** means the real property owned or controlled by an applicant for which water service capacity allocation, wastewater service capacity allocation, or both, is requested.
17. **Service lines** means the pipes of the system, which are connected from city water and wastewater facilities to the "point of delivery."
18. **Transmission facilities** means those lines and appurtenant facilities used to either transmit wastewater from the (i) collection facility to a wastewater treatment plant, (ii) transmit treated wastewater to a final effluent disposal site, (iii) transmit water from a water treatment plant to a distribution system or (iv) transmit raw water from wells to a water treatment plant.
19. **Utility agreement** means a written agreement between the city and a property owner which establishes the terms and conditions pursuant to which the city will provide water and/or wastewater services.
20. **Utility facilities** means by way of illustration and not limitation, all equipment, fixtures, pumps, lines, mains, manholes, lift stations, pumping stations, laterals, service connections, and any all appurtenances thereto together with all real property, easements and right-of-way necessary to provide water and wastewater service.
21. **Wastewater Impact Fee** means a fee or charge paid to the City by an Applicant for the purpose of obtaining Wastewater Service Capacity. Impact fees are utilized for the acquisition, improvements, expansion and construction of facilities deemed necessary by the City to furnish Wastewater Service Capacity and related service to the Property and to adequately fund capital improvements to the System. The term specifically does not include the costs of Collection facilities as previously defined or customer installations the costs for which shall be fully borne by the applicant.

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22. **Wastewater Service Capacity** means the rate of wastewater flow on an average daily basis measured in gallons per day, which can be treated and disposed of according to a wastewater facilities design.
23. **Wastewater system** means the facilities associated with the treatment and transmission of wastewater collected by the city.
24. **Wastewater treatment plant** means the facility in which wastewater collected from customers of the city is treated.
25. **Water impact fee** means a fee or charge paid to the city by an applicant for the purpose of obtaining water service capacity. Impact fees are utilized for the acquisition, improvements, expansion and construction of facilities deemed necessary by the city to furnish water service capacity and related service to the property and to adequately fund capital improvements to the system. The term specifically does not include the costs of distribution or customer installations, the cost of which shall be fully borne by the applicant.
26. **Water Service Capacity** means the amount of water, which can be pumped, treated, transmitted and distributed, on an average daily basis, where such amount is measured in gallons per day.
27. **Water system** means the facilities associated with the treatment and distribution of potable water to the city's customers.
28. **Water treatment plant** means the facility in which raw water drawn from wells is treated and subsequently distributed to customers of the city's water system or raw water treated on site and pumped directly into the system,

**10.54.03 Establishment of a Water Impact Fee and Wastewater Impact Fee:** The City Council has determined that the report entitled "Comprehensive Water and Wastewater Rate Study," dated September 2001, sets forth a reasonable methodology and analysis for the determination of the impact fees. Notwithstanding all other charges for water and wastewater connections, facilities or servicing, the city hereby adopts and establishes pursuant to general law, a water impact fee and a wastewater impact fee, the purpose of which will be to finance the cost recovery associated with the water and wastewater service capacities.

- a. Effective May 1, 2002:
  - 1) The water impact fee imposed by the city shall be two hundred thirty-five dollars (\$235.00) per ERC.
  - 2) The wastewater impact fee imposed by the city shall be two hundred seventy dollars (\$270.00) per ERC.
- b. Effective January 1, 2003:
  - 1) The water impact fee imposed by the city shall be four hundred seventy dollars (\$470.00) per ERC.
  - 2) The wastewater impact fee imposed by the city shall be five hundred forty dollars (\$540.00) per ERC.

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- c. Effective January 1, 2004:
  - 1) The water impact fee imposed by the city shall be seven hundred dollars (\$700.00) per ERC.
  - 2) The wastewater impact fee imposed by the city shall be eight hundred seven dollars (\$807.00) per ERC.
- d. A resolution of council may amend these fees from time to time.

**10.54.04 Applicability:** The water and wastewater impact fees set forth herein shall be paid by those applicants who (a) connect to the city's water and/or wastewater system, (b) request water and/or wastewater service from the city, or (c) request an increase in water and/or wastewater customer capacity. The city may exempt any customer from the payment of all or a portion of the water and/or wastewater impact fees to the extent that the city accepts a permanent contribution in aid of construction related to water supply, treatment or transmission facilities or the wastewater transmission, treatment, or effluent disposal facilities having a value of not less than the portion of the water and/or wastewater impact fees being exempted.

**10.54.05 Time of Payment:** All water and/or wastewater impact fees shall be paid prior to the connection of a structure or structures to be served by the city, or such other time as may be specifically provided for by city resolution, by city ordinance, by agreement, or by permit. Applicants shall make payment of water and/wastewater impact fees to the city and at such time will receive official documentation stating that such payments have been made.

**10.54.06 Determination of Equivalent Residential Connection Factors for Water and Wastewater Services:** For the purpose of calculating and imposing the water and wastewater impact fees set forth herein, the equivalent residential connection factor for any particular connection or establishment shall be either 1.0000 ERC or the ERC as calculated and imposed in the manner provided below, whichever is greater.

Type of Establishment	ERC Unit <sup>(1)</sup>	Factor
Residential:		
Single Family	Per Dwelling	1.000
Multi-Family*	Per Dwelling Unit	0.800
Adult Living (Assisted Living)	Per Bed	0.500
House Boat/Live in Boat	Per Dock Slip	1.000
Transient Lodging (Hotel and Motel)	Per Unit/Room	0.500
Bed & Breakfast	Per Establishment	1.000
	Plus Per Bedroom for Rent	0.250

\*Includes condominiums, cooperatives, apartments and town homes.

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Type of Establishment	ERC Unit <sup>(1)</sup>	Factor
<i>Commercial:</i>		
Auditorium	Per Seat	0.019
Barber/Beauty Shop	Per Chair	0.357
Bowling Alley	Per Lane	0.333
Laundromats (Self-Service)	Per Machine	1.330
Dry Cleaning	Per 100 sq. ft.	1.900
Automotive Repair & Maintenance Stores	Per Bay	0.500
Gas Sales	Per Bay	1.132
Add	Per Wash Bay	3.663
Add	Per Toilet	1.132
Car Wash Self Service	Per Bay	3.200
Car Wash Automatic	See Notes e & f	
Shopping Centers	See Notes e & f	
Office Building	Per 1,000 SF	0.3500
<i>Food Service:</i>		
Restaurant, Conventional	Per Seat	0.100
Restaurant (24 hours)	Per Seat	0.167
Restaurant ("Fast Food")	Per Seat	0.050
Bars/Lounges	Per Seat	0.067
<i>Other:</i>		
Theater	Per Seat	0.009
Dinner Theater	Per Seat	0.075
Dental Office	Per Chair	2.143

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Type of Establishment	ERC Unit <sup>(1)</sup>	Factor
Medical Office	Per Exam Room	0.571
Medical Clinic	Per Exam Room	0.571
Church	Per Seat	0.009
Schools (Middle & High)	Per Student	0.071
Schools (Elementary, Day Care, Pre-K, Kindergarten)	Per Student	0.046
Schools (Boarding)	Per Student	0.286

- (1) ERC Measurement Unit. The number of ERC measurement units, as provided by the applicant, approved and/or adjusted by the public works department, shall be based upon the maximum number of such ERC measurement units associated with the criteria used by the city's building department and/or fire marshall for such establishments. The number of square feet shall be based on the enclosed area.
- (a) One Equivalent Residential Connection (ERC) shall, for the purposes of this section, have an assigned value of 1.00. For water customer capacity, one ERC is hereby established and determined to be equal to a flow of 350 gallons per day (GPD), average annual basis, or such other value as may be later approved or determined by the city. For wastewater customer capacity, one ERC is hereby established and determined to be equal to a flow of 300 GPD, average annual basis.
  - (b) The "total equivalent residential connection value" for an establishment shall be calculated by multiplying the ERC factor identified above by the number of ERC units.
  - (c) Mixed-use establishments (i.e. establishments which utilizes water and wastewater capacity under several categories) shall have their impact fees calculated based on the sum of the individual categories applicable to the establishment. The minimum customer capacity requirement (i.e. ERC) shall be based on the highest minimum for any applicable category.
  - (d) For existing establishments that are issued additional building or plumbing permits which will subsequently increase the amount of capacity needed, or if a facility formerly classified as residential is reclassified, the impact fee shall be computed based on the difference in ERCs between the old and new classification. Should the new classification result in a customer capacity demand that is less than the previous, no rebate for fees paid shall be applicable.
  - (e) For all establishments either not listed above or listed without specific ERC units and factors, the total ERC value for water customer capacity shall be determined by dividing the numerator that is equal to the average daily demand (as provided in a certificate from the architect or engineer) by 350 gallons per day (gpd). For example:

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Total Water ERCs	=	Average Daily Demand	
		_____	
		350 gpd/ERC	

The Water Impact Fee shall be determined by using the following formula:

$$\text{Total Water ERCs} \times \$700.00 = \text{Water Impact Fee}$$

- (f) For all establishments either not listed above or listed without specific ERC units and factors, the total ERC value for wastewater customer capacity shall be determined by dividing the numerator that is equal to the average daily flow (as provided in a certificate from the architect or engineer) by 300 gallons per day (gpd). For example:

Total Water ERCs	=	Average Daily Demand	
		_____	
		300 gpd/ERC	

The Wastewater Impact Fee shall be determined by using the following formula:

$$\text{Total Wastewater ERCs} \times \$807.00 = \text{Wastewater Impact Fee}$$

**10.54.07 Establishment of Funds, Expenditure Guidelines and Pledge of Revenues:** The water impact fees collected pursuant to this ordinance shall be deposited into a fund called the "Fort Walton Beach Water System Impact Fee Fund" and the Wastewater Impact Fees shall likewise be deposited into a fund called the "Fort Walton Beach Wastewater Impact Fee Fund."

**10.54.08 Use of Funds**

- a. The water impact fees deposited shall be used only for the acquisition of the city's water system and all components thereof and additions thereto, and the construction and acquisition of additions and extensions to the city's water system and all components thereof including raw water supply facilities, transmission facilities, mains, ground storage facilities, new pumping facilities, water treatment plants, and distribution facilities in order to provide more efficient water treatment capacity or water service capacity to those customers of the city's water system.
- b. The wastewater impact fees so deposited in the above-mentioned fund shall be used only for the acquisition of the city's wastewater system and all components thereof and additions thereto, and the construction and acquisition of additions and extensions to the city's wastewater system and all components thereof, including collection facilities, transmission facilities, treatment facilities, and effluent disposal facilities, in order to provide more efficient sewage treatment capacity, effluent disposal capacity, or wastewater service capacity to those customers of the city's wastewater system.

**10.54.09 Appeal:** Any person aggrieved by an order, requirement, decision or determination of the building official and/or engineer by the implementation or enforcement of this chapter may file a written appeal to the board of adjustment within ten (10) calendar days after the date of the order, requirement, decision or determination by the building official to which the appeal is directed. The procedures for such an appeal are contained in the Code of Ordinances of the City of Fort Walton Beach, Florida, section 20-346, Land Development Regulations.

**10.60 PRIVATE WATER WELLS AND SUPPLY SYSTEMS**

**10.60.01 Prohibition:** No person shall dig, construct or maintain a water well or any other system of private water supply in any area of the city where water from the municipal service is available.

**10.60.02 Permit Required:** No person shall dig or construct a water well in the city without first obtaining a permit from the council. Upon application for the permit, the applicant shall have the right, upon a demand made at the time of the application, to a hearing before the council before the final action by the council on the application. If such permit is issued, then the water well and the water from it, shall, in all respects, conform to all of the requirements of the state department of health and rehabilitative services for the construction and operation of water wells and for the inspection and approval of the water produced thereby.

**10.60.03 Conditions of Permits:** All permits for the digging and construction of water wells, and all permits for the maintenance and use of existing water wells, shall be conditional permits, subject to the following conditions and requirements:

- (1) Monthly inspection and approval of the quality of the water from the well, and its fitness for human consumption, shall be made by the state board of health in accordance with its regulations with respect to water supplied by a public utility. Every person maintaining a water well under such conditional permit shall keep, on the property supplied by water from such water well, the report of the state board of health, and shall display the report to any authorized agent of the city, upon demand.
- (2) Unless the water from the water well which is the subject of the permit is submitted to the monthly inspection and approval of the state board of health, as provided in subsection (1) of this section, and unless the water from the well is approved by the state department of health and rehabilitative services as being fit for human consumption, the water supplied by such well shall not be used, directly or indirectly, for human consumption, for cooking, for making ice or for washing articles of food or cooking utensils, food containers, dishes, plates, cups, knives, forks, spoons or other articles used in connection with the human consumption of food. For the purpose of enforcing this condition, the council shall require that all water connections between the water well, or a tank obtaining water from the water well, or a pumping system used in connection with the water well, and a house, cottage, store, restaurant, building, hotel, rooming house, theater, service station or place of business or abode, shall be discontinued, except for direct connections used only for air conditioning, cooling, refrigeration (but not the making of ice), boiler use and similar uses, provided that there is no connection between such direct connection and any of the other water pipes or water distribution systems in such house, cottage, store, restaurant, building, hotel, rooming house, theater, service station or place of business or abode.

**10.60.04 Deep Water Wells:** "Deep water well" means a well of a depth of 75 feet or more. No person shall drill or continue to drill a deep water well without a permit.

**10.60.05 Enclosure, Protection for Wells:** No person shall operate or maintain, or permit to be operated or maintained, a well or private water system in the city unless such well or system is covered or protected by an enclosure sufficient to prevent a person from falling into or entering such well or system. A permit shall be required to cover or enclose a deep water well or system that is to be dug, or when abandoned, before it is used.

## 10.70 SEWERS AND SEWAGE DISPOSAL

### 10.70.01 Definitions, Table of Abbreviations

**Act or the Act.** The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251, et seq.

**Approval authority.** The administrator of the EPA.

**Authorized representative of industrial user.**

- (1) A principal executive officer of at least the level of vice-president, if the industrial user is a corporation;
- (2) A general partner or proprietor if the industrial user is a partnership or proprietorship, respectively; or
- (3) A duly authorized representative of the individual designated in this definition if such representative is responsible for the overall operation of the facilities from which the indirect discharge originates.

**Biochemical oxygen demand (BOD).** The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure, five days at 20 degrees Celsius expressed in terms of weight and concentration (milligrams per liter [mg/l]).

**Building sewer.** A sewer conveying wastewater from the premises of a user to the POTW.

**Categorical standards.** National categorical pretreatment standards or pretreatment standard.

**Cooling water.** The water discharged from any use such as air conditioning, cooling or refrigeration, or to which the only pollutant added is heat.

**Control authority.** Refers to the approval authority or the superintendent of the city's wastewater treatment plant.

**Direct discharge.** The discharge of treated or untreated wastewater directly to the waters of the state.

**Environmental Protection Agency or EPA.** The U.S. Environmental Protection Agency, or, where appropriate, the term may also be used as a designation for the administrator or other duly authorized official of such agency.

**Grab sample.** A sample which is taken from a waste stream on a one-time basis with no regard to the flow in the waste stream and without consideration of time.

**Holding tank waste.** Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks and vacuum-pump tank trucks.

**Indirect discharge.** The discharge or the introduction of nondomestic pollutants from any source regulated under section 307(b) or (c) of the Act (33 U.S.C. 1317), into the POTW (including holding tank waste discharged into the system).

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**Industrial user.** A source of indirect discharge which does not constitute a discharge of pollutants under regulations issued pursuant to section 402 of the Act (33 U.S.C. 1342).

**Interference.** The inhibition or disruption of the POTW treatment processes or operations which contributes to a violation of any requirement of the city's NPDES permit. The term includes prevention of sewage sludge use or disposal by the POTW in accordance with 405 of the Act (33 U.S.C. 1345), or any criteria, guidelines or regulations developed pursuant to the Solid Waste Disposal Act (SWDA), the Clean Air Act, the Toxic Substances Control Act, or more stringent state criteria (including those contained in any state sludge management plan prepared pursuant to Title IV of SWDA) applicable to the method of disposal or use employed by the POTW.

**National categorical pretreatment standard.** or **pretreatment standard.** Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307(b) and (c) of the Act (33 U.S.C. 1347) which applies to a specific category of industrial users.

**National pollution discharge elimination system** or **NPDES permit.** A permit issued pursuant to section 402 of the Act (33 U.S.C. 1342).

**National prohibitive discharge standard** or **prohibitive discharge standard.** Any regulation developed under the authority of 307(b) or the Act and 40 CFR 403.5.

**New source.** Any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section.

**Passthrough.** A discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW's NPDES permit.

**Person.** Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns. The masculine gender shall include the feminine, and the singular shall include the plural where indicated by the context.

**pH.** The logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.

**Pollutant.** Any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, dirt and industrial, municipal and agricultural waste discharged into water.

**Pollution.** The manmade or man-induced alteration of the chemical, physical, biological and radiological integrity of water.

**POTW treatment plant.** That portion of the POTW designed to provide treatment to wastewater.

**Pretreatment** or **treatment.** The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration can be obtained by physical, chemical or biological processes, or process changes, except as prohibited by 40

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CFR 403.6(d).

**Pretreatment requirements.** Any substantive or procedural requirement related to pretreatment, other than a national pretreatment standard imposed on an industrial user.

**Publicly owned treatment works (POTW).** A treatment works as defined by section 212 of the Act (33 U.S.C. 1292) which is owned in this instance by the city. This definition includes any sewers owned by the city that convey wastewater to the POTW treatment plant. For the purposes of this chapter, "POTW" shall also include any sewers that convey wastewater to the POTW from persons outside the city who are, by contract or agreement with the city, users of the city's POTW.

**Significant industrial user.** Any industrial user of the city's wastewater disposal system who: (i) has a discharge flow of 25,000 gallons or more per average work day; (ii) has a flow greater than five percent of the flow in the city's wastewater treatment system; (iii) has in his or her wastes toxic pollutants as defined pursuant to section 307 of the Act or state statutes and rules; or (iv) is found by the city, Florida Department of Environmental Regulation or the U.S. Environmental Protection Agency (EPA) to have significant impact, either singly or in combination with other contributing industries, on the wastewater treatment system, the quality of sludge, the system's effluent quality or air emissions generated by the system.

**Standard industrial classification (SIC).** A classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1972.

**Stormwater.** Any flow occurring during or following any form of natural precipitation and resulting therefrom.

**Superintendent.** The person designated by the city to supervise the operation of the publicly owned treatment works and who is charged with certain duties and responsibilities by this chapter or his or her duly authorized representative.

**Suspended solids.** The total suspended matter that floats on the surface of, or suspended in, water, wastewater or other liquids, and which is removable by laboratory filtering.

**Toxic pollutant.** Any pollutant or combination of pollutants listed as toxic in regulations promulgated by the administrator of the Environmental Protection Agency under the provision of CWA 307(a) or other acts.

**Unpolluted water.** Water of a quality equal to or better than the effluent criteria in effect or water that would not cause violation of receiving water quality standards and would not be benefited by discharge to the sanitary sewers and wastewater treatment facilities provided.

**User.** Any person who contributes, causes or permits the contribution of wastewater into the city's POTW.

**Wastewater.** The liquid and water carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, together with any groundwater, surface water, and stormwater that may be present, whether treated or untreated, which is contributed into or permitted to enter the POTW.

**Wastewater contribution permit.** Such permits as set forth in this chapter.

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**Waters of the state.** All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion thereof.

### Table of Abbreviations.

BOD	Biochemical oxygen demand
CFR	Code of Federal Regulations
COD	Chemical oxygen demand
DER	Department of environmental regulation (Florida)
EPA	Environmental Protection Agency
l	Liter
mg	Milligrams
mg/l	Milligrams per liter
NPDES	National pollutant discharge elimination system
POTW	Publicly owned treatment works
SIC	Standard industrial classification
SWDA	Solid Waste Disposal Act, 42 U.S.C. 6901, et. seq.
USC	United States Code
TSS	Total suspended solids

**10.70.02 Purpose:** This chapter sets forth uniform requirements for direct and indirect contributors into the wastewater collection and treatment system for the city and enables the city to comply with all applicable state and federal laws required by the Clean Water Act of 1977 and the General Pretreatment Regulations (40 CFR 403).

**10.70.03 Objectives:** The objectives of this chapter are:

- (1) To prevent the introduction of pollutants into the city wastewater system which will interfere with the operation of the system or contaminate the resulting sludge.
- (2) To prevent the introduction of pollutants into the municipal wastewater system which will pass through the system, inadequately treated, into receiving waters or the atmosphere or otherwise be incompatible with the system.
- (3) To improve the opportunity to recycle and reclaim wastewaters and sludges from the system.
- (4) To provide for equitable distribution of the cost of the municipal wastewater system.
- (5) Set rates for disposal.
- (6) This chapter shall apply to the city and to persons outside the city who are, by contract or agreement with the city, users of the city POTW. Except as otherwise provided in this chapter, the superintendent of the city POTW shall administer, implement, and enforce the provisions of this chapter.

**10.70.04 Enforcement:** The city's enforcement guide for sampling, monitoring, and reporting violations is outlined in their pretreatment enforcement response plan. These are the steps that will be taken in regards to a particular circumstance. The city may suspend the wastewater treatment service and/or a

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wastewater contribution permit when such suspension is necessary, in the opinion of the city, in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of person, to the environment, causes interference to the POTW or causes the city to violate any condition of its NPDES permit.

**10.70.05 Actions upon Notification of Suspension:** Any person notified of a suspension of the wastewater treatment service and/or the wastewater contribution permit shall immediately stop or eliminate the contribution. In the event of a failure of the person to comply voluntarily with the suspension order, the city shall take such steps as deemed necessary including immediate severance of the sewer connection, to prevent or minimize damage to the POTW system or endangerment to any individuals. The city shall reinstate the wastewater contribution permit and/or the wastewater treatment service upon proof of the elimination of the noncomplying discharge at the user's expense. A detailed written statement submitted by the user describing the causes of the harmful contribution and the measures taken to prevent any future occurrence shall be submitted to the city within 15 days of the date of occurrence.

**10.70.06 Falsifying Information:** Any person who knowingly makes any false statement, representation or certification in any application, record, report, plan or other document files required to be maintained pursuant to this chapter or wastewater contribution permit, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this chapter, shall, upon conviction, be punished as provided by section 1.05.

### **10.70.07 Use of Public Sewer Required**

- (1) **Prohibited deposits on public or private property.** No person shall place, deposit or permit to be placed or deposited in any unsanitary manner on public or private property in the city, or in any area under the jurisdiction of the city, any human or animal excrement, garbage or objectionable waste.
- (2) **Prohibited discharge to natural outlets.** No person shall discharge to any natural outlet in the city, or in any area under the jurisdiction of the city, any wastewater or other polluted water, except where suitable treatment has been provided in accordance with this chapter.
- (3) **Buildings to be connected to sewerage system.** The owners of all houses, buildings or properties used for human occupancy, employment, recreation or other purposes, situated in the city and abutting on any street, alley or right-of-way in which there is now located or may in the future be located a public sanitary sewer of the city, are hereby required, at their expense, to install suitable toilet facilities therein and to connect such facilities directly with the proper public sewer, in accordance with this chapter, within 90 days after the date of official notice to do so.
- (4) **Connection required.** The city will require all developed properties to be serviced by the city's central sanitary sewer system within one year of notice by the city of availability of service.
- (5) **Connection inspection.** By the year 1995, the city will complete a city-wide inspection to ensure that all developed properties are, can be connected or cannot be connected to the central sewer system.
- (6) **Septic tank and package treatment plants prohibited.** The city shall continue its prohibition of the installation of package treatment plants and septic tanks.

**10.70.08 Maintenance of Laterals:** The applicant, user or owner of the property serviced by the city

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sewer service shall be responsible for maintaining the sewer pipes between the plumbing fixtures on the property and the property line in good operating condition and free from all internal obstructions.

**10.70.09 Sewer Line Extension Policy:** The sewer extension policy of the city shall be that the developer or customer shall pay all costs of extensions but shall not pay less than the total tap fee as outlined in this section.

When it is determined that a sewer extension is necessary to serve a proposed development, a rough estimate will be provided to the owner and developer upon request. If the developer wishes to have a detailed estimate, a written request must be made and a financial arrangement must be made with the finance director in the amount of ten percent of the rough estimate or ten percent of the total proposed tap fee, whichever is higher, to cover the cost of design and preparation of a detailed estimate of the sewer extension. After this detailed estimate is presented to the developer, he may choose to not go any further with the proposed extension, which will cause the developer to forfeit the amount paid for the preparation of the detailed estimate, or he may choose to continue the sewer extension process. At such time, the initial financial arrangement will apply toward the construction costs or tap fees. If the developer chooses to proceed with construction, and such construction is set up as a project, he will be required to provide additional financial arrangements with the finance director to cover the amount of the detailed estimate or the amount of the total tap fees, whichever is greater, before construction can begin. This will be considered to be the cost of the extension.

**10.70.10 Septic Tanks, Portable Toilets, Pleasure Boat, Travel Trailer Waste:** Septic tank, portable toilet, pleasure boat and travel trailer waste shall not be introduced into the city's wastewater system, except at the facility located near the intersection of Hollywood Boulevard and Robinwood Drive, or at a meter connection provided by the city. This sewage shall be metered and appropriate charges paid. Charges are due and payable immediately upon the acceptance of such waste by the city. Residential and commercial customers who have sewer service available to them, but who are not connected to the sewer system, shall be charged accordingly.

**10.70.11 Industrial Permits:** The initial permit fee plus the sampling fee will be established and set forth in the general fee schedule plus the sampling as listed in this section. The fees for the industrial permit shall be determined by the number of samples and types of tests required of that industry. A fee shall be charged for each sample collected by the city plus the cost of analysis of the sample plus ten percent of the cost of analysis. This shall be billed after the results of the test have been received.

**10.70.12 Major Industries:** Major industries, as defined by 40 CFR 128, and any other regulation established from time to time by the Environmental Protection Agency, or another appropriate regulating agency, shall comply with 40 CFR 128.

### 10.71 BUILDING SEWERS AND CONNECTIONS

**10.71.01 Permit Required to Open Sewer:** No person shall uncover, make any connection with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a permit.

**10.71.02 Location of Existing Sewer Tap:** Prior to installation of a building sewer service, information on the location of sewer taps will be provided by the division of engineering after a permit for a sewer line is issued. Verification of the elevation and location shall be the responsibility of the contractor or homeowner.

**10.71.03 Use of Old Sewers:** Old building sewers may be used in connection with new buildings only

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when they are found, upon examination and test by the city, to meet all the requirements of this chapter.

**10.71.04 Compliance with Code:** The size, slope, alignment and materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench, shall all conform to the requirements of the building and plumbing codes or other applicable rules and regulations of the city. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the ASTM and WPCF Manual of Practice 9 shall apply.

**10.71.05 Connection Fees:** A flat tap fee shall be charged to each development per unit. An additional fee shall be charged when it is necessary to cut any paved surface. In addition to these tap fees, an additional fee may be charged as authorized by resolution of the city council.

- (1) **Single-family residential.** A tap fee shall be paid for any new tap or connection made to the city sanitary sewer line. Such fee shall include all costs for providing sewer service to the property line of the property to be served. Where an existing building is serviced by a septic tank and used at the time application for city sewer service is made, the tap fee shall be the same as is required for a new tap or connection. Where the front footage of a lot or parcel exceeds 100 feet in width, the tap fee will be calculated based on a front footage cost. The cost per foot will be determined by dividing the flat tap fee by 100 feet; thence multiplying the cost per foot by the front footage to determine the final tap fee for the lot or parcel.
- (2) **Multifamily residential.** Where more than one residential unit is constructed, a sewer tap fee will be charged. Hotels, motels, guest houses and tourist courts shall be considered to contain residential units.
- (3) **Commercial.** Where a commercial development is constructed, a sewer tap fee will be charged for each business unit of 4,000 square feet or less. Where a business unit exceeds 4,000 square feet of floor area, an additional tap fee shall apply for each 4,000 square feet and portion thereof. Where a development of multiple units is constructed, the total tap fee will be based on the fee per unit as described in this section. Where a warehouse is constructed, the tap fee shall be based on the square footage of the office space provided.

**10.71.06 Payment before Connection:** In all cases, the applicable connection fee shall be paid to the city before the service connection is made by the city.

**10.71.07 Elevation:** Whenever possible, the building sewer shall be brought to the building at an elevation below the lowest floor. In all buildings in which a building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

**10.71.08 Polluted Surface Drainage Restricted:** No person shall connect sump pumps, roof downspouts, foundation drains, areaway drains or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer, unless such connection is approved by the city for purposes of disposal of polluted surface drainage.

**10.71.09 Regulation of Connections to Public Sewer:** The connection of a building sewer to the public sewer shall conform to the requirements of the building and plumbing codes or other applicable rules and regulations of the city, or the procedures set forth in appropriate specifications of the ASTM and the WPCF Manual of Practice 9. All such connections shall be made gastight and watertight and verified by

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proper testing. Any deviation from the prescribed procedures and materials must be approved by the city before the connection is made.

**10.71.10 Inspection, Testing:** The applicant for the building sewer permit shall notify the city when the building sewer is ready for inspection and connection to the public sewer. The connection and testing shall be made under the supervision of the city building official or his or her representative.

**10.71.11 Excavations Guarding:** All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard.

**10.71.12 Damage to City Property:** If any sidewalk, street, curb or asphalt maintained by the city or any city utility is damaged, it will be repaired by the city and billed to the party responsible for the damage on a billing work order.

**10.71.13 Inflow During Installation:** In the process of installing a building sewer and connecting it to a sanitary sewer, no sanitary sewer shall remain open to inflow of groundwater, surface water and/or stormwater for more than one hour.

**10.71.14 Capping of Unused Connection Points:** Sanitary sewers installed with unused points of connection for building sewers shall have the points of connection capped for watertight integrity prior to connection of the building sewer. The method of capping shall be one approved by the city.

**10.71.15 City Construction in City Right-of-Way:** A sanitary sewer line or service installed on a city right-of-way or in an easement granted to the city for the purpose of sanitary sewer lines that are to be maintained by the city shall be constructed by the city. If the city deems that assistance in the installation of such lines is necessary, construction may be performed by a private contractor, approved by the city, according to the specification set forth in this chapter or accepted by the utilities director.

### 10.72 DISCHARGE LIMITATIONS AND RESTRICTIONS

**10.72.01 Wastewater Dischargers:** It shall be unlawful to discharge without a city permit into any natural outlet within the city, in any area under the jurisdiction of the city, and/or to the POTW any wastewater, except as authorized by permit.

**10.72.02 City's Rights:** If any water or waste is discharged or is proposed to be discharged to the public sewers, which water contains the substances or possesses the characteristics of the enumerated prohibitions in this chapter, and which, in the judgment of the city, may have a deleterious effect upon the wastewater facilities, processes or equipment; the disposal of residuals produced therein or receiving waters; or which otherwise creates a hazard to life or constitutes a public nuisance, the city may reject the waste, or require pretreatment to an acceptable condition for discharge to the public sewers; or require payment to cover the added cost of handling and treating the waste.

When considering the alternatives of subsection (a) of this section, the city shall give consideration to the economic impact of each alternative on the discharger as well as the impact on the wastewater facilities. If the city permits the pretreatment and/or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the city.

**10.72.03 Discharge Prohibitions:** No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will interfere with the operation or performance of the POTW or allow pass-through of these pollutants or wastewater. In addition, the specific prohibitions for pollutants as stated in section 403 of the Act shall not be introduced to the POTW. These general

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prohibitions apply to all such users of a POTW whether or not the user is subject to national categorical pretreatment standards or requirements. A user may not contribute the following substances to any POTW:

- (1) Any liquids, solids or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the POTW or to the operation of the POTW. Also, prohibition of wastestreams with a closed cup flashpoint of less than 140 degrees Fahrenheit or 60 degrees Celsius using the test methods specified in section 261 of the Act. At no time shall two successive readings on an explosion hazard meter, at the point of discharge into the system (or at any point in the system) be more than five percent nor any single reading over ten percent of the lower explosive limit (LEL) of the meter. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and sulfides and any other substances.
- (2) Solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment facilities such as, but not limited to: grease, garbage with particles greater than one-half inch in any dimension, animal guts or tissue, paunch manure, bones, hair, hides or fleshings, fish scales, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, gas, tar, asphalt residues, residues from refining, or processing of fuel or lubricating oil, mud, or glass grinding or polishing wastes.
- (3) Any wastewater having a pH less than five, or having any other corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel of the POTW.
- (4) Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the POTW, or to exceed the limitation set forth in a categorical pretreatment standard. A toxic pollutant shall include but not be limited to any pollutant identified pursuant to section 307(a) of the Act.
- (5) Any noxious or malodorous liquids, gases, or solids which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair.
- (6) Any substance which may cause the POTW's effluent or any other product of the POTW such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case shall a substance discharged to the POTW cause the POTW to be in noncompliance with sludge use or disposal criteria, guidelines or regulations developed under section 405 of the Act; any criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or state criteria applicable to the sludge management method being used.
- (7) Any substances which will cause the POTW to violate its NPDES and/or state disposal system permit or the receiving water quality standards.
- (8) Any wastewater with objectionable color not removed in the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions.

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- (9) Any wastewater having a temperature which will inhibit biological activity in the POTW treatment plant resulting in interference, but in no case wastewater with a temperature at the introduction into the POTW which exceeds 40 degrees Celsius (104 degrees Fahrenheit) unless the POTW is designed to accommodate such temperature.
- (10) Any pollutants, including oxygen demanding pollutants (BOD, etc.) released at a flow rate and/or pollutant concentration which a user knows or has reason to know will cause interference to the POTW. In no case shall a slug load have a flow rate or contain concentration or quantities of pollutants that exceed for any time period longer than 15 minutes more than five times the average 24-hour concentration, quantities or flow during normal operation.
- (11) Any wastewater containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the superintendent in compliance with applicable state or federal regulation.
- (12) Any wastewater which causes a hazard to human life or creates a public nuisance.
- (13) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass-through.
- (14) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems.
- (15) Any trucked or hauled pollutants, except at discharge points designated by the POTW.

**10.72.04 Grease, Oil, Sand Interceptors:** Grease, oil and sand interceptors shall be provided when, in the opinion of the city, they are necessary for the proper handling of liquid waste containing floatable grease in excessive amounts, as specified in this chapter, or any flammable waste, sand or other harmful ingredients, except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the city and shall be so located as to be readily and easily accessible for cleaning and inspection. In the maintenance of these interceptors, the owner shall be responsible for the proper removal and disposal, by appropriate means, of the captured material and shall maintain records of the dates and means of disposal, which records are subject to review by the city.

**10.72.05 Specific Pollutant Limitations:** No person shall discharge wastewater containing in excess of:

Pollutant	mg/l
Arsenic	0.10
Barium	2.0
Boron	1.0
Cadmium	0.02
Chrome (total)	1.0
Chrome (hexavalent)	0.1
Copper	0.50
Cyanide	0.20
Fluoride	4.0
Iron	5.0
Lead	0.10
Mercury	0.005

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<b>Pollutant</b>	<b>mg/l</b>
Nickel	1.0
Selenium	0.02
Silver	0.10
Zinc	1.0
Endrin	0.0004
Lindane	0.008
Methoxychlor	0.2
Toxaphene	0.01
2, 4-D	0.2
2, 4, 5-TP Silvex	0.02

**10.72.06 Pretreatment of Flow Equalizing Facilities:** Where pretreatment or flow-equalizing facilities are provided or required for any water or waste, they shall be maintained continuously in satisfactory and effective operation by the owner at his or her expense. Furthermore, pretreatment or flow-equalizing facilities may be inspected by the city and/or its duly authorized representatives without notice to the owner.

**10.72.07 State Requirements:** Florida Department of Environmental Regulation requirements and limitations on discharges shall apply in any case where they are more stringent than federal requirements and limitations or those in this chapter.

**10.72.08 Federal Categorical Pretreatment Standards:** Upon the promulgation of the federal categorical pretreatment standards for a particular industrial subcategory, the federal standard, if more stringent than limitations imposed under this chapter for sources in that subcategory, shall immediately supersede the limitations imposed under this chapter. The superintendent shall notify all affected users of the applicable reporting requirements under 40 CFR 403.12.

**10.72.09 Measurement Standards:** All measurements, tests and analyses of the characteristics of water and waste to which reference is made in this chapter shall be determined in accordance with the latest edition of Standard Methods for the Examination of Water and Wastewater, published by the American Public Health Association. Sampling methods, locations, times, durations, and frequencies are to be determined on an individual basis, subject to approval by the city.

**10.72.10 Excessive Discharge:** No user shall ever increase the use of process water or, in any way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the federal categorical pretreatment standards, or in any other pollutant-specific limitation developed by the city or state. (Comment: Dilution may be an acceptable means of complying with some of the requirements of this chapter, e.g. the pH prohibition.)

**10.72.11 Accidental Discharges:** The user shall provide protection from accidental discharge of prohibited materials or the substances regulated by this chapter. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the owner or user's own cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the city for review, and shall be approved by the city before construction of the facility. Review and approval of such plans and operating procedures shall not relieve the industrial user from the responsibility to modify the user's facility as necessary to meet the requirements of this chapter. In the case of an accidental discharge, it is the responsibility of the user to immediately telephone and notify the POTW of the incident. The notification shall include location of discharge, type of waste, concentration and volume, and corrective actions.

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- (1) **Written notice.** Within five days following an accidental discharge, the user shall submit to the superintendent a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties or other applicable law.
- (2) **Notice to employees.** A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a dangerous discharge. Employers shall ensure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedure.

**10.72.12 Periodic Compliance Reports:** All significant industrial users subject to a pretreatment standard, after the compliance date of such pretreatment standard, or, in the case of a new source, after commencement of the discharge into the POTW, shall submit to the utilities department during the months of June and December, unless required more frequently in the pretreatment standard or by the superintendent, a report that contains:

- (1) The nature and concentration of pollutants in the effluent which are limited by such pretreatment standards;
- (2) A record of all daily flows which during the reporting period exceeded the average daily flow reported;
- (3) The mass of pollutants regulated by pretreatment standards in the effluent of the user when the user is using dilution to meet applicable pretreatment standards or requirements, because dilution is not an acceptable alternative to meet pretreatment standards, or in other cases where the imposition of mass limitations are appropriate.
- (4) These reports shall contain the results of sampling and analysis of the discharge, including the flow and the nature and concentration, or production and mass where requested by the superintendent, of pollutants contained therein which are limited by the applicable pretreatment standards;
- (5) The frequency of monitoring shall be prescribed in the applicable pretreatment standard;
- (6) All analysis shall be performed in accordance with procedures established by the administrator pursuant to section 304(g) of the Act and contained in 40 CFR 136 and amendments thereto or with any other test procedures approved by the administrator. Sampling shall be performed in accordance with the techniques approved by the administrator. (Comment: Where 40 CFR 136 does not include a sampling or analytical technique for the pollutant in questions sampling and analysis shall be performed in accordance with the procedures set forth in the EPA publication, Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants, April, 1977, and amendments thereto, or with any other sampling and analytical procedures approved by the administrator.)

**10.72.13 Monitoring Facilities:** The city shall require the user, at his or her expense, to provide and operate a monitoring facility to allow inspection, sampling, and flow measurement of the building sewer and/or internal drainage systems, if determined to be necessary by the city. The monitoring facility should normally be situated on the user's premises, but the city may, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public right-of-way area

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and located so that it will not be obstructed by landscaping or parked vehicles.

There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility and any required sampling and measuring equipment required of the user shall be maintained at all times in a safe and proper operating condition at the expense of the user. Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the city's requirements and all applicable local construction standards and specifications. Construction shall be completed within 90 days following written notification by the city.

**10.72.14 Authority for Inspections and Sampling:** The superintendent, the sanitation and licensing inspector and other duly authorized employees of the city, bearing proper credentials and identification, shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling and testing relative to discharges to the community sewerage system in accordance with this chapter.

**10.72.141 Right to Gather Information; Restrictions:** A superintendent, sanitarian and licensing inspector and other duly authorized employees of the city are authorized to obtain any necessary information concerning industrial processes and operations which have a direct bearing on the kinds and sorts of discharges being discharged to the wastewater collection system. The city has the right to copy any information and data obtained in reports, questionnaires, permit applications, permits, monitoring programs and inspections on any user. This information and data shall be available to the public or other governmental agencies in accordance with applicable state law and/or federal law.

**10.72.142 Indemnification of City and Owner:** While performing the necessary work referred to in this section on private property the superintendent, the sanitation and licensing inspector and other duly authorized employees of the city shall observe all safety rules applicable to the premises and established by the owner, and the owner shall be held harmless for injury or death to the city employees. The city shall indemnify the owner against loss or damage to its property caused by city employees and against liability claims and demands for personal injury or property damage asserted against the owner and growing out of the gauging and sampling operations, except as such may be caused by negligence of failure of the owner to maintain safe conditions as required by section 36-204. For the purposes of this subsection, "owner" means and included the lawful owner of the premises, the tenant, the lessee and any other person lawfully occupying the premises by and with the consent and permission of the owner.

**10.72.143 Right of Entry through Easement:** The wastewater treatment plant superintendent, the sanitation and licensing inspector and other duly authorized employees of the city, bearing proper credentials and identification, shall be permitted to enter all private properties through which the city holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair and maintenance of any portion of the wastewater facilities lying within such easement. All entry and subsequent work, if any, on such easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

**10.72.15 Pretreatment:** Users shall provide necessary wastewater treatment as required to comply with this chapter and shall achieve compliance with all federal categorical pretreatment standards within the time limitations as specified by the federal pretreatment regulations. Any facilities required to pretreat wastewater to a level acceptable to the city shall be provided, operated, and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the city for review and shall be acceptable to the city before construction of the facility. The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying

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the facility as necessary to produce an effluent acceptable to the city under the provisions of this chapter. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be acceptable to the city prior to the user's initiation of the changes. All records relating to compliance with pretreatment standards shall be made available to officials of the EPA or approval authority upon request.

### 10.73 PRIVATE LIFT STATIONS

**10.73.01 Definitions:** The following words, terms and phrases, when used in this section, shall have the meaning ascribed to them in this subsection, except where the context clearly indicates a different meaning:

**Annual station inspection.** The required yearly inspection and certification of all mechanical, structural, and electrical components of certain privately owned lift stations located within the city.

**Dwelling, multifamily.** A building designed for or occupied exclusively by three or more families.

**Dwelling, one-family.** A building designed for or occupied exclusively by one family.

**Dwelling, two-family.** A building designed for or occupied exclusively by two families.

**Florida Department of Environmental Protection, or FDEP.** The State of Florida Department of Environmental Protection, or, where appropriate, the term may also be used as designation for the administrator or other duly authorized official of such state agency. The FDEP serves as the primary compliance and enforcement authority within the state for matters relating to the construction of wastewater collection and treatment facilities. Furthermore, the FDEP serves as the main investigation agency for all sewage spills within lands or waters of the state.

**Health hazard.** Any condition or action which creates, or may create, a danger to the health, safety, and welfare of the general public. For the purpose of this section, sanitary sewage spills from private lift station facilities onto lands within the city or into waters in or bordering the city will constitute an imminent danger to public health and will be classified as a health hazard.

**Okaloosa County Health Department or OCHD.** The state health department unit located within Okaloosa County, or, where appropriate, the term may also be used as designation for the administrator or other duly authorized official of such state agency. The OCHD serves as the primary authority within the county for assessing and determining the appropriate level of public health risk for any accident, outbreak, catastrophe, or natural disaster.

**Privately owned lift station or POLS.** A mechanical apparatus owned and/or operated by a person or entity other than the city, and designed for the conveyance of sanitary sewage from its origin on private property to publicly owned infrastructure such as a gravity sewer main, sewage force main, lift station, or pumping station. Apparatus may be a package lift station, grinder pump system, or pump station, etc. located on nonpublic property within the corporate boundaries of the city.

**10.73.02 Purpose:** The purpose of this section is to monitor the use of privately owned lift stations within the city. Nothing contained herein is intended to replace or affect the jurisdiction and enforcement of the Florida Department of Environmental Protection or Okaloosa County Health Department, or any other governmental agency charged with administering, regulating, or enforcing matters relating to the construction of wastewater collection and treatment facilities.

**10.72.03 Registration and Permitting:** For any property containing an existing privately owned lift

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station, the property owner shall register with the city obtain a permit for such POLS within 90 days of the August 26, 2003. Property owners shall register and obtain permits for all new POLS within 90 days of installation. The property owner shall be required to renew the permit each year. An administrative fee for such registration is authorized to be charged by the city, the amount of which shall be set by resolution and may be amended from time to time. Such registration fee shall include a late fee for any property owner who does not obtain or renew a POLS permit within the time limits imposed by this chapter.

**10.73.04 Annual Inspection Required:** For any property containing a privately owned lift station, the property owner shall obtain an annual station inspection on such POLS, certifying that the POLS meets all mechanical, structural, and electrical requirements of the state. Proof of such annual inspection shall be required to obtain a permit. Thereafter, the annual station inspection shall be performed within 60 days of the expiration of such permit. The property owner must submit a report certifying the POLS is in proper operating order meeting all state requirements and all needed maintenance/repairs have been completed. This certification of the results from each annual inspection shall be submitted to the city prior to the expiration of the permit. Such submission of documentation prior to the expiration of the facility's permit shall serve as renewal notification to the city of said permit. Such inspections shall be conducted and certified by a state licensed professional engineer or a state licensed master plumber at the owner's sole expense.

**10.73.05 Exemption from Inspection:** A property containing only a one-family dwelling or a two-family dwelling shall be exempt from the annual inspection requirement. Properties containing a townhouse or multifamily dwelling, which is serviced by a common or community privately owned lift station, shall not qualify for the exemption as outlined in this subsection and shall be required to comply with the reporting requirements.

**10.73.06 Penalty:** Any property owner who does not obtain and maintain a permit as required by this section shall be deemed to be in violation of the City Code. Any property owner violating this section may be subject to enforcement by the code enforcement board and be subject to the rules and procedures of that board, including being subjected to a fine, in an amount as the code enforcement board may determine. In addition to the above, any property owner failing to obtain the required annual station inspection or failing to provide certification of compliance as required by this section, will be reported to the FDEP, OCHD, or any other governmental agency, deemed appropriate by the city manager.

### 10.74 WASTEWATER CONTRIBUTION PERMITS

**10.74.01 Permit Required:** All significant industrial users proposing to connect to or to contribute to the POTW shall obtain a wastewater discharge permit before connecting to or contributing to the POTW. All existing significant users connected to or contributing to the POTW shall obtain a wastewater contribution permit on or before April 9, 1991. All other users (domestic sewage only) of the POTW shall be permitted by the issuance of a plumbing permit.

**10.74.02 Application Information:** Users required to obtain a wastewater contribution permit shall complete and file with the city, an application in the form prescribed by the city. New users shall apply at least 90 days prior to connecting to or contributing to the POTW. The city will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the city may issue a wastewater contribution permit subject to terms and conditions provided in this section. In support of the application, the user shall submit, in units and terms appropriate for evaluation, the following information:

- (1) Name, address, and location (if different from the address).

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- (2) SIC number according to the Standard Industrial Classification Manual, Bureau of the Budget, 1972, as amended.
- (3) Wastewater constituents and characteristics including but not limited to those mentioned in this chapter as determined by a reliable analytical laboratory; sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to section 304(g) of the Act and contained in 40 CFR 136, as amended.
- (4) Time and duration of contribution.
- (5) Average daily and 30-minute peak wastewater flow rates, including daily, monthly and seasonal variations if any.
- (6) Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections, and appurtenances by their size, location and elevation.
- (7) Description of activities, facilities and plant processes on the premises including all materials which are or could be discharged.
- (8) Where known, the nature and concentration of any pollutants in the discharge which are limited by any city, state or federal pretreatment standards, and a statement regarding whether or not the pretreatment standards are being met on a consistent basis and if not, whether additional operation and maintenance (O & M) and/or additional pretreatment is required for the user to meet applicable pretreatment standards.
- (9) Each product produced by type, amount, process or processes and rate of production.
- (10) Type and amount of raw materials processed (average and maximum per day).
- (11) Number and type of employees, hours of operation of plant and proposed or actual hours of operation of pretreatment system.
- (12) Any other information as may be deemed by the city to be necessary to evaluate the permit application.

**10.74.03 Schedule for Pretreatment:** If additional pretreatment and/or O & M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. The following conditions shall apply to this schedule:

- (1) The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.).
- (2) No increment referred to in subsection (1) shall exceed nine months.
- (3) Not later than 14 days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the superintendent including, as a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on

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which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the user to return the construction to the schedule established. In no event shall more than nine months elapse between such progress reports to the superintendent.

**10.74.04 Modifications:** Within nine months of the promulgation of a national categorical pretreatment standard, the wastewater contribution permit of users subject to such standards shall be revised to require compliance with such standard within the time frame prescribed by such standard. Where a user, subject to a national categorical pretreatment standard, has not previously submitted an application for a wastewater contribution permit, as required, the user shall apply for a wastewater contribution permit within 180 days after the promulgation of the applicable national categorical pretreatment standard. In addition, the user with an existing wastewater contribution permit shall submit to the superintendent within 180 days after the promulgation of an applicable federal categorical pretreatment standard the information required for an application for permit.

**10.74.05 Conditions:** Wastewater discharge permits shall be expressly subject to all provisions of this chapter and all other applicable regulations, user charges and fees established by the city. Permits may contain the following:

- (1) The unit charge or schedule of user charges and fees for the wastewater to be discharged to a community sewer.
- (2) Limits on the average and maximum wastewater constituents and characteristics.
- (3) Limits on average and maximum rate and time of discharge or requirements for flow regulations and equalization.
- (4) Requirements for installation and maintenance of inspection and sampling facilities.
- (5) Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types and standards for tests and reporting schedule.
- (6) Compliance schedules.
- (7) Requirements for submission of technical reports or discharge reports.
- (8) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the city, and affording city access thereto.
- (9) Requirements for notification of the city of any new introduction of wastewater constituents being introduced into the wastewater treatment system.
- (10) Requirements for notification of slug discharges.
- (11) Other conditions as deemed appropriate by the city to ensure compliance with this chapter.

**10.74.06 Duration:** Wastewater discharge permits shall be issued for a specified time period not to exceed five years. A permit may be issued for a period less than a year or may be stated to expire on a specific date. The user shall apply for permit reissuance a minimum of 180 days prior to the expiration of the user's existing permit. The terms and conditions of the permit may be subject to modification by the city during the term of the permit as limitations or requirements are modified or other just cause exists. The user shall be informed of any proposed changes in his or her permit at least 30 days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time

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schedule for compliance.

**10.74.07 Transfer:** Wastewater discharge permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation without the approval of the city. Any succeeding owner or user shall also comply with the terms and conditions of the existing permit.

**10.74.08 Reporting Requirements:** Within 180 days after the effective date of a categorical pretreatment standard, or 180 days after the final administrative decision made upon a category determination submission under section 403.6(a)(4) of the Act, whichever is later, existing industrial users subject to such categorical pretreatment standards and currently discharging to or scheduled to discharge to a POTW shall be required to submit to the control authority a report which contains the following information:

- (1) Identifying information of the facility, including address and name of the operator and owners.
- (2) Any environmental control permits held by facility.
- (3) A brief description of operations including the nature, average rate of production, and standard industrial classification of the operation carried out by such industrial user. This description should also include a schematic process diagram indicating the points of discharge to the POTW.
- (4) Flow measurement showing average daily and maximum daily flow, in gallons per day, to the POTW from all points of discharge.
- (5) Measurement of pollutants discharged.
- (6) Certification of pretreatment standards being met on a consistent basis and if categorical determination is or is not applicable to industrial user according to section 403.6 of the Act.
- (7) A compliance schedule if additional pretreatment and/or O & M will be required to meet the pretreatment standards. The completion date in the schedule provided by the industrial user shall not be later than the compliance date established for the applicable pretreatment standard.

**10.74.09 Compliance Date Report:** Within 90 days following the date for final compliance with applicable pretreatment standards or, in the case of a new source, following commencement of the introduction of wastewater into the POTW, any user subject to pretreatment standards and requirements shall submit to the superintendent a report indicating the nature and concentration of all pollutants in the discharge from the regulated process which are limited by pretreatment standards and requirements and the average and maximum daily flow for these process units in the user facility which are limited by such pretreatment standards or requirements. The report shall state whether the applicable pretreatment standards or requirements are being met on a consistent basis and, if not, what additional O & M and/or pretreatment is necessary to bring the user into compliance with the applicable pretreatment standards or requirements. This report shall be signed by an authorized representative of the industrial user which is defined in section 403.12 of the Act, and certified to by a qualified professional.

**10.74.10 Revocation of Permit:** Any user who violates any of the following conditions of this chapter, or applicable state and federal regulations, is subject to having his or her wastewater discharge permit revoked in accordance with the procedures of this division:

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- (1) Failure of a user to factually report the wastewater constituents and characteristics of his or her discharge.
- (2) Failure of the user to report significant changes in operations, or wastewater constituents and characteristics.
- (3) Refusal of reasonable access to the user's premises for the purpose of inspection or monitoring.
- (4) Violation of conditions of the permit.

**10.74.11 Notice of Violation:** Whenever the city finds that any user has violated or is violating this chapter, wastewater contribution permit, or any prohibition, limitation or requirements contained in this division, the city may serve upon such person a written notice stating the nature of the violation. Within 30 days of the date of the notice, a plan for the satisfactory correction thereof shall be submitted to the city by the user. At the end of the calendar year, the city will publish a list of significant violators who have not corrected any violations within 45 days after being contacted of the violation. The city will hold a session for public participation with regards to these violations per section 403.8 of the Act.

**10.74.12 Enforcement Procedures:** The city may order any user who causes or allows an unauthorized discharge to enter the POTW to show cause before the code enforcement board why the proposed enforcement action should not be taken.

- (1) A notice shall be served on the user specifying the time and place of a hearing to be held by the code enforcement board regarding the violation, the reasons why the action is to be taken, the proposed enforcement action, and directing the user to show cause before the code enforcement board why the proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least ten days before the hearing. Service may be made on any agent or officer of a corporation.
- (2) The superintendent or pretreatment coordinator shall transmit a report of the evidence with recommendations to the code enforcement board for action on the industry.
- (3) At any hearing held pursuant to this chapter, testimony taken must be under oath and recorded stenographically. The transcript, so recorded will be made available to any member of the public or any party to the hearing upon payment of the usual charges therefor.
- (4) After the code enforcement board has reviewed the report and the evidence, it may issue an order to the user responsible for the discharge directing that, following a specified time period, the sewer service be discontinued unless adequate treatment facilities, devices or other related appurtenances are properly operated. Further orders and directives as are necessary and appropriate may be issued.

**10.74.13 Legal Action:** If any person discharges sewage, industrial wastes or other wastes into the city's wastewater disposal system contrary to the provisions of this chapter, federal or state pretreatment requirements, or any order of the city, the city manager may authorize and direct the city attorney to commence an action for appropriate legal and/or equitable relief in the appropriate court of jurisdiction.

## 10.75 SEWER RATES AND CHARGES

**10.75.01 Connection Required:** All property owners and/or property users of developed property that is available for connection to the existing sewage collection system are required to pay the established

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sewage charges or fees, as set by the city from time to time, whether connected to the sewer system or not.

**10.75.02 Bases for Rates:** The rates, fees and other charges for sanitary sewer service shall be based on section 204(b) of the Federal Water Pollution Control Act Amendments of 1972, PL 92-500, as amended, which requires that the city develop and maintain a system of user charges to ensure that each recipient of sewer service pay its proportionate share of the costs of operation and maintenance (including replacement) of all waste treatment services provided by the city. Such rates, fees and charges shall also be based on an industrial cost recovery system which requires all present and future industrial users to pay that portion of federal funds granted which are allocable to the treatment of wastes from industrial users.

**10.75.03 Authority to Establish Charges:** The city council shall establish and amend as necessary all charges related to sanitary sewer services by resolution through the general fee schedule.

**10.75.04 Unit Defined:** Units are defined as follows: single-family residence, one unit; multiple residential units, each residential unit, one unit; motels, each ten rooms or fraction thereof, one unit. Each commercial business establishment operating under a business name and connected to a water meter: one unit. Each individually owned or operated business or commercial establishment which is housed in a building that is separated by a partition wall from an adjacent business and is directly accessible to the public from the outside will be considered a separate unit.

**10.75.05 Surcharge:** To the established rates and charges, there shall be added a surcharge based on the following formula. This surcharge shall be applied to all users whose sewage has suspended solids or biochemical oxygen demand in excess of the following concentrations: BOD: 220 ppm, and suspended solids: 200 ppm. The additional charge for sewage having concentrations in excess of these amounts shall be based on the cost per 1,000 gallons determined according to the following formula:

Surcharge	=	$\frac{[(B-220) + (S-200)] 8.34 \times \$0.24^*}{1,000}$	=	Cost/1,000 gals.
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The surcharge cost will be multiplied by the user's metered water consumption (in 1,000 gallons). The calculated amount will then be added to the charges computed under the city's normal rate schedule to arrive at the user's total monthly bill.

**10.75.06 Toxic Pollutants:** Any user discharging any toxic pollutants which cause an increase in the cost of managing the effluent or the sludge of the city's treatment works shall pay the cost of such additional expense as determined by the city.

**10.75.07 Discharge:** If the user is discharging less water than is being purchased and wants to be billed for only the discharged amount, then the user must install a metering device. If the user is discharging more water than is being purchased, the city will require the user to install a metering device. This metering device shall be purchased, installed and maintained by the user but be approved by the city. Monthly readings will be provided to the city to calculate the sewer bill for the month. Annual calibrations will be required with copies provided to the city.

**10.75.08 Nonresident Surcharge:** Provided that there are not franchise agreements to the contrary, for all sewer service supplied outside the city limits, there shall be added to the foregoing rate a minimum surcharge of 25 percent. A higher surcharge for outside city use may be imposed at the discretion of the council.

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**10.75.09 Adjustments:** The city manager is hereby authorized to make administrative adjustments of the rates prescribed in this section in cases where hardship would be placed on an individual account or where application of the rate does not provide an average billing increase. The city council may, by resolution, make any adjustments to the rates as it may deem necessary and proper.

**10.75.10 Other Water not Put into System:** If a business uses water for business purposes (such as concrete companies, landscaping, etc.) and the water used does not enter the city sewerage system, monthly billing will be made for consumption of water only, not for sewage and water charges. In order to qualify for this exemption, two meters will be required; one to serve the business purpose and one to serve normal sewage requirements.

### 10.80 SOLID WASTE

**10.80.01 Definitions:** The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

**Bulk container or dumpster.** A container that may contain both wet and dry solid waste that is typically used by commercial, industrial, public, or multi-tenant residential facilities.

**Construction and demolition debris.** Concrete, concrete block, brick, mortar, sand, gravel, dirt, drywall, paper, metal, asphalt, and any other construction or demolition by product.

**Garbage.** All kitchen and table food waste, animal or vegetative waste that is attendant with or results from the storage, preparation, cooking or handling of food materials.

**Hazardous waste.** Any chemical, compound, mixture, substance, or article that is designated by the United States Environmental Protection Agency, or other applicable federal agency, or by the State of Florida to be "hazardous," as that term is defined by federal or state law, and which shall not be disposed in a landfill, transfer station, or recycling facility.

**Infectious wastes.** Those wastes that may cause disease or that are reasonably suspected of harboring pathogenic organisms, including wastes resulting from the operation of medical clinics, hospitals and other facilities producing infectious wastes, such as diseased human and animal parts, contaminated bandages, pathological specimens, hypodermic needles, contaminated clothing and surgical gloves, etc.

**Recycling.** The reuse of solid waste in manufacturing, agriculture, power production, or other processes.

**Recyclables.** Those solid waste items that are separated from the solid waste stream and can become commodities through recycling.

**Sanitary nuisance.** A condition created by any person, or the keeping, maintaining, propagation, existence, or permitting of anything by a person which threatens or impairs the health or lives of individuals, or causes or transmits disease, and further defined in the City's Land Development Code.

**Shredding.** A process of reducing the particle size of solid waste through the use of grinding, shredding, milling or rasping machines.

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**Solid waste.** Garbage, trash, recyclables, construction and demolition debris, and other types of waste material, whether residential or commercial, allowed to be accepted for disposal at landfills, but excluding all hazardous waste, and special waste.

**Solid waste container.** A city-supplied or owned solid waste container for use with automated garbage trucks with a 96-gallon maximum capacity.

**Special waste.** Any solid waste that requires special processing, handling, or disposal techniques that are different from the techniques normally used for handling and disposal of solid waste. Examples include, but are not limited to, abandoned vehicles, used tires, waste oil, sludge, dead animals, agricultural and industrial wastes, septic tank pumpings, asbestos, liquid wastes, infectious wastes and residue, pollution control residue, and debris or contaminated soil or water from the cleanup of a spill.

**Tipping Fees.** Those fees charged by a commercial hauler of solid waste from a waste transfer facility, transfer station, or a waste landfill. Such charges shall be based on a volumetric amount (usually per ton) calculated when the Waste Collection Vehicle drops (tips) the solid waste load at the commercial transfer facility, transfer station, or waste landfill.

**Transfer station.** A transfer facility for the receipt, short-term processing or holding, and transfer of solid waste, yard waste, or recyclables.

**Trash.** Refuse, accumulations of paper, wooden or paper boxes or containers, and sweepings, and all other accumulations that are usual to housekeeping and to the operation of stores, offices and other business places, other than garbage and yard waste, for which no special processing, handling, or disposal techniques are required.

**Waste Collection Vehicle (WCV).** A vehicle specifically designed to pick up various quantities of solid waste for transport to a transfer facility, transfer station, or waste landfill.

**Waste oil.** All types of waste oils, including waste automotive lubricants, industrial waste oils, and petroleum compounds.

**White goods.** Inoperative and discarded refrigerators, ranges, washers, water heaters, and other similar domestic and commercial appliances.

**Yard waste.** Vegetative resulting from landscaping maintenance or land clearing operations and includes materials such as tree and shrub trimmings, grass clippings, palm fronds, trees and tree stumps.

**10.80.02 Private Collection, Transportation Prohibited:** No private person or business may collect, haul or transport solid waste generated from residences or places of business, unless specifically authorized to do so by the city through an exception permit.

**10.80.020 Exception Permit:** The city manager may issue an exception permit to allow private individuals or businesses to service commercial accounts upon a finding that the city's equipment is either inadequate to service the proposed account or it is not economically feasible for the city to service the account. Permits will be issued to approved vendors only in October of each year and prior to container placement

**10.80.021 Revocation of Exception Permit:** The city manager may, at any time, revoke any

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exception permit issued pursuant to this section upon a finding that the city either has obtained the equipment necessary to service the account or that it has become economically feasible for the city to service such account. Upon such revocation, the account shall thereafter be serviced by the city

**10.80.022 Compensation for Permit:** All private individuals and businesses that are issued exception permits shall compensate the city by paying to the city, on a quarterly basis, a 10% fee of the gross revenue of the customers being serviced in the city by such private individuals or businesses previously approved to conduct a solid waste hauling operation within the City. Such compensation shall be based not only on standard container customers, but on any other type of collection service approved by the city for the customers and commercial hauler. Failure to pay the fee shall be grounds for revoking the business license of the solid waste service provider and/or revoking the exception permit.

**10.80.03 Solid Waste Container Service:** The City will issue solid waste containers to an address and are not to be removed from the premises of that address. If a dwelling is to be unoccupied for any length of time, the property owner should notify the city. Containers are stamped on the top rim with a serial number for identification. In the case of multiple dwelling units, such as duplexes, apartments, etc., the city will furnish an adequate number of containers to satisfy the refuse requirements based on a rate of two collections per week.

**10.80.031 Placement of Containers:** Containers shall be placed near the street curb or alley as indicated and directed when the containers are first issued. If the WCV operator finds that a container location needs to be changed, he will relocate the container and notify the user by a tag placed on the container. The containers shall not be placed behind or close to parked cars, utility poles or other obstacles that might prevent safe access by the mechanical arm pickup from the side of the WCV. If approved by the utilities department, containers may be permanently placed near the street only when they are concealed by a structure that is not unsightly to the neighborhood and that is in keeping with the surrounding area, but such containers must be removed away from such structures by users and properly placed for collection. Containers shall not be placed at the curb or alley earlier than 7:00 p.m. of the evening preceding the collection day and must be removed to a point at the side or rear of the structure not later than 7:00 p.m. on the day of collection.

**10.80.032 Proper Use of Containers:** Containers are for garbage and trash. Yard waste, such as grass clippings, leaves, yard rakings, tree and shrub trimmings, etc., paint, solvent, rock, sod, or large pieces of metal or concrete shall not be placed in such containers. City issued solid waste containers shall at all times have their lids on and be closed.

**10.80.033 Maintenance of Containers:** Occupants shall maintain their containers in good, clean and serviceable condition and shall return them to the city in good condition if so directed by the utilities department. The city will replace or repair any container that fails because of defects or damage caused by the collection equipment. All other damage or loss shall be the occupant's responsibility, the occupant will be billed by the city for the cost of any repair or replacement resulting from abuse or negligence on the part of the occupant.

**10.80.034 Special and Extra Pickups:**

- (1) If all occupants of a residential unit are physically unable to properly place the solid waste container at the curb, the city will provide a special pick up for that residential unit

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once each week. Such occupants shall contact the City and request to have the residential address serviced by a special pick up.

- (2) A resident may request an additional garbage or trash pickup for a time other than the regular scheduled pickup time or in addition to the regular scheduled pickup time. Such pickups are considered "extra collection pickups" for both commercial and residential users and are subject to additional charges.

**10.80.035 Bulk Containers:** Any commercial or multifamily complex that generates more solid waste than can be placed in the provided containers or that does not have the facilities to accommodate the containers shall request, or the City may require, the bulk container service provided by the city. A bulk container shall not be used at a commercial or multifamily complex if a proper location is not provided for the bulk container or if it is not accessible to the WCV for handling.

**10.80.036 City Responsibility:** The collection, hauling and disposal of solid waste generated within the city shall be made by the officers, agents, or employees of the city under the direction of the city manager. The charges established by the city shall be set forth in the city's comprehensive fee schedule and may be amended from time to time by resolution of the city council.

**10.80.04 Prohibited Use of Containers:** No person shall dump solid waste into a city container which is assigned to another person or dump solid waste that was generated outside of the city into any city solid waste container of any kind.

### **10.80.05 Solid Waste Collection Conditions:**

- (1) Commercial users shall dispose of their solid waste in their approved bulk or solid waste containers. Bulk containers shall be accessible to city employees and WCVs and positioned only in city approved locations on the commercial sites.
- (2) Residential solid waste cans shall be brought to curbside by their users unless a special pickup has been authorized.
- (3) Boxes shall be broken down and placed in solid waste or bulk containers.
- (4) Residential users must separate yard waste from all other solid waste. Yard waste will be collected on the normal yard waste collection day. No single item of yard waste shall exceed four feet in length, have a diameter greater than four inches, or exceed 50 pounds in weight. The volume of loose yard waste shall be limited to 4 cubic yards per week or less. Exceptions may be made for storm damage.
- (5) Garbage and trash shall be placed in the container provided. If the volume is too great to fit into the container, then the customer shall call the utilities department for an extra pickup.
- (6) No person shall sweep or otherwise deposit solid waste into the streets, alleys or sidewalks of the city.
- (7) The city will not collect hazardous wastes, infectious wastes, and dangerous materials or substances, such as poisons, acids, caustics, infected materials, ashes, explosives and

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radioactive materials. Such materials must be properly disposed of by the person or business creating the hazardous waste.

**10.80.06 Burning; Incinerators:** No person shall burn any wastes in the city except in an incinerator authorized by appropriate permits. Operation of incinerators shall be subject to periodic fire department inspections to ensure that adequate fire and safety precautions are maintained.

**10.80.07 Construction Debris:** Construction and demolition debris resulting from remodeling, repair, excavation, construction, demolition of structures, etc., such as earth, plaster, mortar, roofing materials, pieces of concrete, lumber, etc.; must be removed and properly disposed of in an approved container by the person or contractor performing such work or disposal. Use of such containers requires the issuance of an exception permit pursuant to sec. 10.80.020. Construction debris, as described in this section, shall not be disposed of in any city waste container.

**10.80.08 Waste Oil, Grease:** Waste oil and grease accumulated at garages, filling stations and similar establishments shall be removed and properly disposed of by those establishments. The city shall not remove such waste except for the city's convenience or public health, safety, or welfare. If the city removes such waste, the establishment or property owner will be charged for the removal. No person shall place waste oil or grease into storm sewers, sanitary sewers or on the ground.

**10.80.09 Accumulations, Deposits Limited:** No person shall accumulate solid waste upon any premises in the city for a period longer than eight days. Solid waste placed at the curb side or right-of-way shall be treated as an intended solid waste pick-up on the regularly scheduled day. Oversized or excess volume will be subject to additional fees as described in sec. 10.80.034, for which a billing work order may be issued, with payment is due upon issuance. No persons shall deposit solid waste upon any vacant or unoccupied premises, in any waterway, pit or pool, or upon the property or premises of another person. The removal of all solid waste located on an unoccupied or vacant piece of property is the responsibility of the property owner.

**10.80.10 Recycling:** City issued recycling bins are the property of the city but the responsibility of the resident or user. The bins shall be left at the residence when the resident moves. Recyclable materials shall be collected and disposed of only in the manner designated by the city manager.

**10.80.11 Removal of Solid Waste Materials; Violation:** It shall be unlawful for any unauthorized person to remove, pick up, or transfer any solid waste materials from disposal containers. This prohibition shall include scavenging. Each unauthorized removal, pick up or transfer of solid waste will constitute a separate offense, and shall be punishable as provided in section 1.05.

### 10.82 SOLID WASTE RATES AND CHARGES

**10.82.01 Authority to Establish Rates, Charges:** The city council shall establish rates and charges to be paid by the owner or occupant of each residential, commercial, or multi-family unit for the collection of solid waste by the city. Activating water service will automatically activate solid waste charges.

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### 10.82.02 Units, Bases Defined

**Multifamily services.** Multifamily residential units on individual water meters utilizing a city-supplied bulk container are charged per unit per month, or the fee for bulk containers, whichever is greater.

**Single unit service.** Single-family residential service, multifamily residential service, are charged per unit per month.

**Bulk container service.** These containers are provided at the request of the user and shall be billed on a monthly basis using the following formula: monthly rate charge equals the rate per cubic yard per pickup times the cubic yards per container times the number of pickups per week times 52 weeks a year divided by 12 months a year.

**Compactor service.** Accounts utilizing a compactor, which is used with a bulk container that is compatible with city equipment, shall be charged the commercial rate times three per bulk container. (Commercial rate  $\times$  3  $\times$  number of bulk containers equals fee.)

**Commercial sharing of containers.** Businesses may combine and share the cost of commercial bulk containers, but each business shall pay the “sharing dumpster” fee as outlined in the city’s current Comprehensive Fee Schedule. If access to a container is blocked when the solid waste employees arrive for a scheduled pickup, the pickup will not be made. Solid waste employees will not return until the next scheduled date unless arrangements are made otherwise.

**Change of container.** If a customer desires to change a bulk container size, the customer shall pay a service charge for the container change-out equivalent to the rate outlined in the city’s current Comprehensive Fee Schedule.

**Fuel surcharge.** A fuel surcharge shall be billed per month and determined per unit as number of pickups per week  $\times$  \$0.045  $\times$  4 weeks a month.

**10.82.03 Appeals:** Should any person feel aggrieved by an administrative ruling of the city manager in the establishment of a special rate, such person may file a written complaint with the city clerk at least two weeks prior to a regularly scheduled meeting of the city council. Such complaint shall briefly set forth the grievance. Upon receipt of such complaint, the matter shall be placed on the agenda for hearing at the next meeting of the council. If such complaint is adjudged to be well-founded, then the council shall make such recommendations and amendments as it deems proper; otherwise, the designation or classification of the city manager shall be final.

**10.82.04 Payment of Charges; Suspension of Service:** The charges for solid waste services shall be paid monthly to the city, and the city is hereby authorized to include such charges on the regular monthly statements for water and sewage service. A surcharge of five percent of the total amount of such bill shall be added to the bill for any late payment. Upon failure to pay the bill in full, together with any applicable surcharge, within 30 days from the billing date, all services associated with the bill shall be discontinued until all required payments are made in full, plus applicable service fees, deposits and/or surcharges as may be otherwise assessed.

**10.82.05 Tipping Fee Charges:** Charges (tipping fees) for disposal of solid waste shall be added to the service charges.

**10.90 STREETS AND SIDEWALKS**

**10.90.01 Acquisition of Rights-of-Way:** The acquisition of rights-of-way for city streets shall be according to the following terms:

- (1) The quality of the title of property upon which the city may construct a road shall be a fee simple interest deeded to the city.
- (2) Transfers of title may be by special warranty deed, with a copy attached, signed by all parties who have an interest in the property, including all mortgagees.
- (3) A title search shall be made to verify the current owners and lienholders of the property, prior to receiving the transfer of title.

**10.90.02 Removal of Material Prohibited:** No person shall remove grass, earth or sand from, or dig up, any street, or deposit material of any kind on any street or right-of-way, without the permission of the director of public works.

**10.90.03 Excavations:** After any paved street or sidewalk has been laid under the provisions of any ordinance, no person shall dig into or disturb any such paved street or sidewalk or any part of such street or sidewalk, for any purpose, without first obtaining a written excavation permit from the director of public works. Any person desiring to dig up or disturb any paved street or sidewalk shall make written application to the director for permission to do so and shall pay to the city, in cash, at the time such application is made, such sum of money as the director may deem sufficient to pay all costs incurred in restoring the disturbed portion of any paved street or sidewalk to its original condition. Immediately after the repairs causing such digging or disturbing have been made, the director shall be notified, whereupon the director shall cause the excavation in or under the street to be filled, under his or her direction, by workers in his or her employ, and shall cause the disturbed portion of the paved street or sidewalk to be placed in its original condition, as nearly as practical. Should the cost of such work be less than the amount paid to the city as required in this section, the excess shall be returned to the owner. Should it be more, the owner shall pay the difference to the city.

**10.90.04 Use of Streets for Business Purposes:** No person shall use any portion of the streets or sidewalks of the city for the location or operation of any private business, unless such person first obtains a permit or franchise for such use of the streets or sidewalks from the council. In lieu of such monthly permit, the supplier or his or her agent may purchase an annual permit which shall permit the supplier's vehicles to cross city curbs and rights-of-way for the purpose of loading or unloading such vehicles. The permit shall be purchased prior to crossing any curb within the city limits. A curb shall not be considered as a driveway access to a street.

**10.90.05 Removal of Curb:** A driveway permit approved by the city will be required for anyone proposing to remove existing curb to provide driveway access. Removal of existing curb or curb back will be performed by the city. Driveway turnout curb will be installed by the individual at his or her expense, according to specifications set forth by the director of public works.

**10.90.06 Sidewalk Improvement Program:** The city finds that there is a need for a coordinated program for improving sidewalks in order to correct existing deficiencies and plan for future needs of the city, and that such program will increase pedestrian safety and improve the quality of life of residents and visitors. The city hereby establishes the following prioritization of need for planning sidewalk improvements throughout the city:

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- (1) **Priority level I.** Arterial roadways, school areas and those streets on which children would normally walk to schools, business districts, industrial districts, historical districts, health care areas and areas where partial or incomplete sidewalks now exist.
- (2) **Priority level II.** Collector roadways.
- (3) **Priority level III.** Local streets.

**10.90.061 Sidewalk Improvement Implementation:** The city establishes the following procedures for implementing the sidewalk prioritization:

- (1) Identify streets needing sidewalks according to the priority level.
- (2) Initiate city sponsored projects and/or receive petitions from property owners desiring sidewalks and develop cost estimates. Rank all proposed sidewalk projects by priority level for funding.
- (3) The city shall seek to secure adjacent property owner participation in funding sidewalk improvements to the extent of the benefit of the improvement to the adjacent property owner.

**10.90.07 Street Drainage Design:** Drainage facilities shall be designed so as to facilitate elimination of stormwater from paved streets within 24 hours of all but catastrophic rainfall events. Channeling stormwater runoff directly into water bodies, coastal wetlands, living marine resource habitats, or wildlife habitats shall be prohibited. The city shall require the use of swale drainage to the maximum extent possible, except where it is physically unfeasible as determined by the utilities department director. If feasible, perforated pipe shall be used for exfiltration purposes in situations where piping is necessary.

**10.90.08 Bicycle Transportation:** All new roads, road widening projects and/or road resurfacing projects within the city shall be designed to accommodate bicycle transportation following the recommendations and criteria for selecting streets for bicycling listed in table 6 of the Fort Walton Beach Metropolitan Planning Organization Comprehensive Bicycle Transportation Plan for the Fort Walton Beach Urbanized Area, adopted November, 1985, and based on adequate funding, available right-of-way and traffic analysis.

### 10.91 RIGHT-OF-WAY PROTECTION

**10.91.01 Purpose:** The purpose of this section is to ensure a safe and efficient traffic circulation system in the city by establishing right-of-way widths for future transportation facilities and by prohibiting encroachment of structures into existing rights-of-way.

**10.91.02 Permit Required:** Except as provided in this section, no person shall construct or maintain any structure or facility (including utilities) or make any other use of a public road or future road right-of-way unless and until a permit has been issued by the public works director pursuant to the city council approving and authorizing such construction, maintenance or use. All applications for the use of public right-of-way must describe the space to be used and the length of time of such use. Permits may be granted for a period of time not exceeding six months, but may be renewed from time to time for periods not to exceed six months, if the encroachment does not unreasonably restrict the public use of the right-of-way and the encroachment is necessary to accomplish the objective for which it is requested in a reasonable manner.

**10.91.03 Minimum Right-of-Way Requirements:** No person shall willfully obstruct any portion of the

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right-of-way for a new roadway identified in the future traffic circulation map series established in the traffic circulation element of the comprehensive plan. No person shall construct any structure or facility (including utilities) or make any other use of the right-of-way for a new roadway identified in the future traffic circulation map series unless and until a permit has been issued by the public works director pursuant to the city council authorizing and approving such construction, maintenance or use as described in this section. The following minimum right-of-way widths for new roadways identified in the traffic circulation element of the comprehensive plan are established as follows:

	Urban (ft.)	Transitional (ft.)
Local	60	60
2-Lane Collector/One-Way	60	60
4-Lane Undivided Arterial	96	96
4-Lane Divided Arterial	112	112
6-Lane Divided Arterial	112	112
4-Lane Freeway	N/A	300
6-Lane Freeway	N/A	350

**10.91.04 Presumptions:** Any person who obstructs a public road or future road right-of-way shall be presumed to have done so willfully if the obstruction is allowed to remain on the right-of-way for a period of 24 hours after the person has been notified to remove the obstruction by the city council or its authorized representative.

**10.91.05 Roadside Stands Prohibited:** It shall be unlawful for any person or persons to operate or cause to be operated any roadside stand within or on any portion of the right-of-way of any public road.

**10.91.06 Exceptions:** The following shall be exceptions from the requirements of this section:

- (1) Improvement of a public road by a property owner of such public road adjacent to his or her property with landscaping, shrubbery or grass which is not inconsistent with the use of the public road for road purposes;
- (2) The parking of motor vehicles on that portion of the public road not used as traffic lanes if not otherwise prohibited;
- (3) Use of the public road for road and traffic purposes other than such purposes involving vehicles of such weight or of such characteristics (for example, metal tires or treads) as may, in the opinion of the city engineer, damage the road surface;
- (4) The replacement or maintenance of existing utility facilities, such as telephone poles.

**10.91.07 Non-permitted Structures or Facilities:** Any structure or facility, including utilities constructed or maintained on public roads in violation of this section shall be removed from such right-of-way, and such right-of-way shall be restored to the condition which existed immediately prior to the construction or maintenance of such structure or facility at the expense of the person constructing, maintaining or owning such structure or facility. If such structure or facility has not been removed and the right-of-way restored as required by this section, then such structure or facility may be removed by the city manager or a designee at the expense of the person constructing, maintaining or owning such structure or facility. If such person does not pay to the city the cost of removing such structures and facilities and restoring the right-of-way, as required by this section, the cost shall be and constitute a lien against all property owned by such person in the county, to be foreclosed in the manner provided by law.

**10.92 ACCESS MANAGEMENT**

**10.92.01 General Standards:** All proposed development shall meet these standards for vehicular access and circulation:

- (1) Access points must be able to accommodate all vehicles entrances having occasion to enter the site, including delivery vehicles.
- (2) Access point design must be such that an entering standard passenger vehicle will not encroach upon the exit lane of a two-way driveway. Also, a right-turning exiting vehicle will be able to use only the first through traffic lane available without encroaching into the adjacent through lane.
- (3) There must be sufficient onsite storage to accommodate queued vehicles waiting to park or exit without using any portion of the street right-of-way or in any other way interfering with street traffic.

**10.92.02 Number of Access Points:** A maximum of one access point shall be permitted to a particular site from each of one or two abutting streets. When it is in the interest of good traffic circulation, the city engineer, in concurrence with the city manager or a designee may permit one additional access point along a continuous site with frontage in excess of 500 feet, or two additional access points along a continuous site with frontage in excess of 1,000 feet. For the purpose of this section, dual one-way access drives will be considered to be one access point.

**10.92.03 Separation of Access Points:** The separation between access points on state-maintained roads shall be in accordance with Florida Department of Transportation (FDOT) rules, F.A.C. chs. 14-96 and 14-97. On roads that are not maintained by the state, the separation between access points onto arterial and collector roadways, or between on access and an intersection of an arterial or collector with another road, shall be as shown in the following table. The distance between access points shall be measured from the centerline of the proposed driveway or roadway to the centerline of the nearest adjacent roadway or driveway. The city engineer may permit a single access point for a property that cannot be permitted access consistent with the standards of subsection 10.92.02 of this section and which has no reasonable alternative access, as determined by the city engineer in concurrence with the city.

<b>Functional Class of Roadway</b>	<b>Distance Between Access Points (feet)</b>
Major arterial	175
Minor arterial	100
Major collector	50
Minor collector	40

**10.92.04 Vacating Public Street, Alley, Easement, Plat:** Petitions to vacate, abandon, discontinue or close any public street, alleyway, easement or subdivision plat, either in whole or in part, may be initiated by the city council, the municipal planning board or the city manager, or by any person affected thereby.

- (1) Such petitions shall be filed with the city manager or a designee, and shall be accompanied by a legal description and location map of the property or easement proposed to be vacated, certified by a qualified engineer or land surveyor. Petitions to vacate any plat, either in whole or in part, shall be accompanied by an attorney's opinion verifying that the person making the [petition is

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the owner of the] whole or part of the tract covered by the plat sought to be vacated.

- (2) A processing fee shall be borne by the petitioner. Said fee shall be determined by the city council by separate resolution.
- (3) The municipal planning board shall hold a public hearing to consider such petitions, and, as soon as practicable thereafter, the board shall submit its recommendation in writing to the city council. In addition to the notice required for ordinances, by general law, the subject street, alleyway, easement or subdivision shall be posted. Notice shall be sent by the city by regular U.S. mail to the owner(s) (at the address as reported on the latest ad valorem tax records on file with the Okaloosa County Tax Collector, as of the date of the application) of land lying within 200 feet of the street, alleyway, easement or subdivision, which is the subject of the request. The notice shall contain a description of the request, the date, time, and place of the public hearing and shall be posted and mailed at least ten days prior to each public hearing before the municipal planning board and the city council, respectively. Provided further, the applicant shall file with the city the list of owners required to be given notice, in label form (one set of labels for each public hearing), as part of the application to the municipal planning board.

**10.92.05 Method of Approval:** Following a public hearing before the municipal planning board, and receipt of a recommendation by the municipal planning board after such a hearing, the city council may, by ordinance, approve the vacation of a public street, alleyway, dedicated easement or subdivision plat if it is determined that, in the discretion of the city council, the following criteria have been met there is no present necessity, or reasonably foreseeable necessity, for the retention of the street, alleyway, easement or subdivision plat, and that the right to exclusive or necessary access of adjoining property owners will not be negatively impacted, and that the access to a public water body will not be negatively impacted.

### 10.93 STREET DESIGNATION

**10.93.01 Adoption of Plan:** A plan shall be adopted which will provide for the orderly and systematic naming of thoroughfares and the identification of platted lots by assigning numbers in a logical sequence within the city.

**10.93.02 Naming of Streets:** The names of all future arterial streets shall be chosen from lists to be prepared by the municipal planning board commemorating local distinguished citizens, national heroes, typical trees, shrubs and flowers, etc. The names of all other new streets may be designated by the developer of the street with the approval of the municipal planning board. There shall be no duplication of names with any existing name of a street in the Fort Walton Beach Postal Services area.

**10.93.03 Conflicting Names; Renaming Streets:** Presently dedicated and platted thoroughfares that have names that are conflicting, ambiguous or duplicative shall be renamed by the municipal planning board so as to eliminate all conflict, ambiguity and duplication.

**10.93.04 Thoroughfare Suffixes:** Thoroughfare suffixes shall be assigned to existing and future thoroughfares in compliance with the following definitive system:

- (1) **Circle.** Nondirectional, originating and ending on the same thoroughfare.
- (2) **Place.** Nondirectional, open on both ends and extending one block.
- (3) **Road.** Nondirectional feeder.

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- (4) **Street.** East-west feeder.
- (5) **Boulevard.** East-west major artery.
- (6) **Parkway.** North-south major artery.
- (7) **Avenue.** North-south feeder.
- (8) **Drive.** Nondirectional feeder.
- (9) **Court.** Nondirectional dead-end.
- (10) **Lane.** Nondirectional feeder.
- (11) **Terrace.** Nondirectional feeder.

**10.93.041 Continuation of Thoroughfare Names:** Thoroughfare names and suffixes shall be continuous with the direction of the thoroughfare and shall not change except at intersections or grid lines.

**10.93.05 Grid or Control System:** Major thoroughfares shall be designated and dispersed throughout the city in both north-south and east-west directions at convenient and appropriate intervals so as to constitute a grid or control system which will preserve established continuity.

- (1) **North-south control lines** shall be established as follows:

Hughes Street and Holmes Boulevard, 100 North
Yacht Club Drive, Beal Parkway, Lovejoy Road, 200 North
South Street, 300 North
Racetrack Road, 500 North
Cinderella Lane, Oakdale Road, Mooney Road, 600 North
Rodney Street, 700 North
Elliott Road, Third Street, Coral Drive (west of Memorial), 100 South
First Street, Brooks Street (east of Highway 98), 200 South
Main Street (Highway 98), 300 South

- (2) **East-west control lines** shall be established as follows:

Harbeson Avenue, 100 East
Chestnut Avenue, Vine Avenue, Iowa Drive, Eglin Parkway (north of Cinco Bridge), 200 East
Elm Avenue, Ferry Road, 300 East
St. Mary Avenue, Robinwood Drive, Meadowlark Road, 100 West
Cedar Avenue, London Avenue and Fliva Avenue, 200 West
Memorial Parkway, 300 West
Wright Parkway, 400 West
Jonquil Avenue, 500 West
Mary Esther Cut-Off, 600 West
Blake Avenue, 700 West

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**10.93.051 East-West, North-South Grid Lines:** Beal Parkway in the main body of the city and Country Club Avenue in the golf course area shall be designated as the principal longitudinal grid lines to establish east-west designations. Hollywood Boulevard shall be designated as the principal latitudinal grid line to establish north-south designations. These control lines, as established, shall be "O" grid lines.

**10.93.052 Identification of Quadrants:** For further clarity in designation, the quadrants of the city resulting from the grid lines so established shall be identified as northeast, southeast, northwest and southwest.

**10.93.06 Numbering Sequence:** Each residential and commercial building and/or lot in the city shall be assigned a number in numerical sequence beginning at the "O" grid designations: Beal Street for east-west and Hollywood Boulevard for north-south orientations. Where duplex or multiple residential units occupy one lot, the assigned number shall be appended by an alphabetical addendum in sequence, i.e. A, B, C, etc. Where an apartment or office building occupies one or more lots, a number in logical sequence shall be assigned which shall be appended by individual apartment or suite numbers in arithmetic sequence, i.e. apartment or suite number 1, 2, 3, etc.

**10.93.061 Odd, Even Number Locations:** In the numbering sequence, odd numbers shall be on the north on all east-west thoroughfares, and on the east on all north-south thoroughfares.

**10.93.062 Arithmetic Progression, Grid Lines:** The grid or control lines established in section 30-31 shall indicate the progression to the next consecutive group of numbers in arithmetic progression of 100, beginning at the "O" grid lines as established in section 30-32.

**10.93.063 Numbering Unplatted Lots:** All unplatted lands in the city shall be assigned numbers in proper and logical sequence, as provided in this chapter, based on a minimum lot size of 75 linear feet fronting on a thoroughfare.

**10.93.07 Administration and Number Assignment:** The city manager will be responsible for managing, coordinating and maintaining the building numbering plan: the owner or occupant of any building to which a number has been assigned will be notified in writing of the number assigned upon request. Should an existing building have, exhibit or be addressed by a number in conflict with the uniform "numbering system," notice shall be given to the owner or occupant, to correct said conflict.

**10.93.08 Standards For Street Address Numbers:** All principal buildings in the city shall be assigned address numbers and shall display such assigned numbers, whether or not mail is delivered to such locations. Numbers need not be displayed on accessory buildings. Docks and piers shall be assigned the same number as the principal building, or, for vacant lots the same number as would be assigned a principal building if existing. Physical numbering shall conform to the following minimum standards:

- (1) Assigned numbers for principal buildings shall be displayed and clearly visible and legible, from the street or private way on which the building fronts. Numbers shall be Arabic numerals not less than three (3) inches in height and one-half inch in width, and preferably of reflective material.
- (2) Numbers must be in a color contrasting to the building or other background.
- (3) In the case of a principal building which has a separate entrance for each dwelling or occupancy space, the assigned number shall be displayed on each separate front entrance.

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- (4) Any different numbers on a building which might be mistaken for or confused with the address number assigned in accordance with the "numbering system" shall be removed.
- (5) Assigned numbers for principal buildings which are not visible from the street or private way shall additionally be displayed at the intersection of the driveway and servicing street attached to a post, wall, fence or mailbox at a level to ensure visibility.
- (6) Assigned numbers for all docks and piers shall be displayed in such a fashion so as not to be confused with channel or other marine markers, and shall be placed at the seaward end of the dock or pier facing the water. Such numbers shall be displayed in Arabic numerals not less than four (4) inches in height and one-half-inch in width, consisting of a reflective material and in a contrasting color to the background to which they are attached. Further, such numbers shall be positioned so as to be constantly between five (5) and eight (8) feet above the mean high waterline.

**10.93.09 Building Permit And Certificate Of Occupancy Restrictions:** The city shall assign an address when a building permit is issued for a principal building, dock or pier. No certificate of occupancy shall be issued until the required number or numbers are displayed in accordance with this chapter.

### **10.100 TREES**

**10.100.01 Title:** This chapter shall be known and may be cited as the "City Tree Ordinance."

#### **10.100.02 Definitions**

**Park trees.** Trees located in public parks within the City of Fort Walton Beach and all areas controlled by the city to which the public has free access as a park.

**Street trees.** Trees located on land lying between property lines on either side of all streets, avenues, and rights-of-way within the City of Fort Walton Beach.

**10.100.03 Administrator:** The public works director is authorized and responsible for administering this chapter, including, but not limited to, developing arboricultural standards relative to tree care, protection, construction impacts, and administrative guidelines for compliance with this chapter.

**10.100.04 Street and Park Trees:** By May 2005, and from time to time thereafter as necessary, the tree board shall recommend and the city council shall establish by resolution lists of acceptable street and park tree types and any related standards.

**10.100.05 Public Tree Care:** The city shall have the right to plant, prune, maintain, and remove trees, plants, and shrubs within the lines of all rights-of-way and public grounds as may be necessary to ensure public safety or to preserve or enhance the symmetry and beauty of such public grounds.

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**CHAPTER 10  
TABLE OF HISTORICAL NOTES AND REFERENCES**

<b>2005 Code Section</b>	<b>1992 Code Section</b>	<b>State Law References/ Other Historical Notes</b>
10.00.01		
10.00.02		
10.10.01	9-27	Code 1985, § 1082.01; Ord. 1420, § 2 (9-26-00)
10.10.02	9-28	Code 1985, § 1082.02(a); Ord. 1420, § 3 (9-26-00)
10.10.03	9-29	(Code 1985, § 1082.02(d); Ord. 1420, § 4 (9-26-00)
10.10.04	9-30	(Code 1985, § 1082.02(e)
10.10.05	9-31	(Code 1985, § 1082.02(f); Ord. 1420, § 5 (9-26-00)
10.10.06	9-32	(Code 1985, § 1082.02(g); Ord. 1420, § 6 (9-26-00)
10.10.07	9-33	(Code 1985, § 1082.02(h)
10.10.08	9-34	(Code 1985, § 1082.02(i)
10.10.09	9-35	(Code 1985, § 1082.03; Ord. 1420, § 7 (9-26-00)
10.10.10	9-36	(Code 1985, § 1082.04
10.10.11	9-37	(Code 1985, § 1082.05
10.10.12	9-38	(Code 1985, § 1082.06; Ord. 1420, § 8 (9-26-00)
10.10.13	9-39	(Code 1985, § 1082.07
10.10.14	9-40	(Code 1985, § 1082.08
10.10.15	9-41	(Code 1985, § 1282.09; Ord. 1165, § 1 (10-8-91); Ord. 1216, § 1 (3-23-93); Ord. No.1340, § 2 (2-10-98); Ord. 1420, § 9 (9-26-00);
	9-41(e)	repeal
10.10.15.1		Ord. 1824 (3-23-10)
10.10.16	9-42	Code 1985, § 1082.10; Ord. 1165 (10-8-91)
10.10.17	9-43(a)	(Code 1985, § 1082.11; Ord. 1165, § 3 (10-8-91); Ord. 1216, § 2 (3-23-93)
10.10.18	9-43(b)	(Code 1985, § 1082.11; Ord. 1165, § 3 (10-8-91); Ord. 1216, § 2 (3-23-93)
10.10.19	9-43(c)	Amend, (Code 1985, § 1082.11; Ord. 1165, § 3 (10-8-91); Ord. 1216, § 2 (3-23-93)
10.10.20	9-44	(Code 1985, § 1082.12; Ord. 866 (3-11-86); Ord. 1420, § 10 (9-26-00)
10.10.21	9-45	(Code 1985, § 1082.13; Ord. 934 (9-8-87)
	9-46	repeal
10.10.22	9-47	Ord. 1420, § 12 (9-26-00)
10.11.01	9-76	Ord. 1421, § 2 (9-26-00)
10.11.02	9-77	Ord. 1421, § 3 (9-26-00)
10.11.03	9-78	Ord. 1421, § 4 (9-26-00)
10.11.04	9-79	Ord. 1421, § 4 (9-26-00)
	9-80	Repeal
10.20.01	10-21	Ord. 1459 (11-27-01)
10.20.02	10-22	Ord. 1459 (11-27-01)
10.20.03	10-23	Ord. 1459 (11-27-01)
10.21.01	10-24(a)	Ord. 1459 (11-27-01)

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<b>2005 Code Section</b>	<b>1992 Code Section</b>	<b>State Law References/ Other Historical Notes</b>
10.21.02	10-24(b)	Ord. 1459 (11-27-01)
10.21.03	10-24(c)	Ord. 1459 (11-27-01)
10.21.04	10-24(d)	Ord. 1459 (11-27-01)
10.21.05	10-24(e)	Ord. 1459 (11-27-01)
10.21.06	10-24(f)	Ord. 1459 (11-27-01)
10.21.07	10-24(g)	Ord. 1459 (11-27-01)
10.21.08	10-24(h)	Ord. 1459 (11-27-01)
10.22.01	10-25	Ord. 1459 (11-27-01)
10.22.02	10-26(a)	Ord. 1459 (11-27-01)
10.22.03	10-26(b)	Ord. 1459 (11-27-01)
10.22.04	10-26(c)	Ord. 1459 (11-27-01)
10.22.05	10-26(d)	Ord. 1459 (11-27-01)
10.22.06	10-26(e)	Ord. 1459 (11-27-01)
10.22.07	10-26(f)	Ord. 1459 (11-27-01)
10.22.08	10-26(g)	Ord. 1459 (11-27-01)
10.22.09	10-26(h)	Ord. 1459 (11-27-01)
10.22.10	10-26(i)	Ord. 1459 (11-27-01)
10.22.11	10-26(j)	Ord. 1459 (11-27-01)
10.22.12	10-26(k)	Ord. 1459 (11-27-01)
10.22.13	10-26(l)	Ord. 1459 (11-27-01)
10.22.14	10-26(m)	Ord. 1459 (11-27-01)
10.22.15	10-26(n)	Ord. 1459 (11-27-01)
10.22.16	10-26(o)	Ord. 1459 (11-27-01)
10.22.17	10-26(p)	Ord. 1459 (11-27-01)
10.22.18	10-26(q)	Ord. 1459 (11-27-01)
10.22.19	10-26(r)	Ord. 1459 (11-27-01)
10.22.20	10-26(s)	Ord. 1459 (11-27-01)
10.22.21	10-26(t)	Ord. 1459 (11-27-01)
10.22.22	10-26(u)	Ord. 1459 (11-27-01)
10.23.01	10-27	Ord. 1459 (11-27-01)
10.23.02	10-27	Ord. 1459 (11-27-01)
10.23.03	10-27(c)	Ord. 1459 (11-27-01)
10.24.01	10-28	Ord. 1459 (11-27-01)
10.25.01	10-29(a)	Ord. 1459 (11-27-01)
10.25.02	10-29(b)	Ord. 1459 (11-27-01)
10.25.03	10-29(c, d)	Ord. 1459 (11-27-01)
10.25.04	10-29(e)	Ord. 1459 (11-27-01)
10.25.05	10-30	Ord. 1459 (11-27-01)
		Ord. 1459 (11-27-01)
10.26.01	10-31	Ord. 1459 (11-27-01)
10.26.02	10-32	Ord. 1459 (11-27-01)
10.26.03	10-33	Ord. 1459 (11-27-01)
10.26.04	10-33 (b, c)	Ord. 1459 (11-27-01)
10.26.05	10-34	Ord. 1459 (11-27-01)
10.26.06	10-35	Ord. 1459 (11-27-01)
10.26.07	10-36	Ord. 1459 (11-27-01)
10.26.06	10-35	Ord. 1459 (11-27-01)
10.26.071	10-36(a, b)	Ord. 1459 (11-27-01)

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<b>2005 Code Section</b>	<b>1992 Code Section</b>	<b>State Law References/ Other Historical Notes</b>
10.26.072	10-36(c, d)	Ord. 1459 (11-27-01)
10.26.08	10-37	Ord. 1459 (11-27-01)
10.26.09	10-38	Ord. 1459 (11-27-01)
10.30.01	36-26	Code 1985, § 1041.03; Ord. 915 (11-11-86)
	36-27	Repeal
10.30.02	36-28	Code 1985, § 1041.01; Ord. 915 (11-11-86)
10.30.03	36-29	Code 1985, § 1041.01; Ord. 915 (11-11-86)
10.30.04	36-30(a, c)	Code 1985, § 1041.01; Ord. 915 (11-11-86)
10.30.05	36-30(b, d)	Code 1985, § 1041.01; Ord. 915 (11-11-86)
10.30.06	36-31	Code 1985, § 1041.01; Ord. 915 (11-11-86)
10.30.07	36-31(h)	Code 1985, § 1041.01; Ord. 915 (11-11-86)
10.30.08	36-32	Code 1985, § 1041.01; Ord. 915 (11-11-86)
10.30.09	36-33	Code 1985, § 1041.01; Ord. 915 (11-11-86)
10.30.10	36-34	Code 1985, § 1041.01; Ord. 915 (11-11-86)
10.40.01	10-1	Ord. 1382 (5-25-99)
10.40.02	10-10	Ord. 1382 (5-25-99)
10.40.03	10-2	Ord. 1382 (5-25-99)
10.41.01	10-3(a)(1)	Ord. 1382 (5-25-99)
10.41.02	10-3(a)(2)	Ord. 1382 (5-25-99)
10.41.03	10-3(a)(3)	Ord. 1382 (5-25-99)
10.41.04	10-3(a)(4)	Ord. 1382 (5-25-99)
10.41.05	10-3(b)	Ord. 1382 (5-25-99)
10.41.06	10-3(c)	Ord. 1382 (5-25-99)
10.41.07	10-3(d)	Ord. 1382 (5-25-99)
10.41.08	10-3(e)	Ord. 1382 (5-25-99)
10.41.09	10-3(f)	Ord. 1382 (5-25-99)
10.41.10	10-3(g)	Ord. 1382 (5-25-99)
10.41.11	10-3(h)	Ord. 1382 (5-25-99)
10.41.12	10-3(i)	Ord. 1382 (5-25-99)
10.41.13	10-3(j)	Ord. 1382 (5-25-99)
10.41.14	10-3(k)	Ord. 1382 (5-25-99)
10.41.15	10-3(l)	Ord. 1382 (5-25-99)
10.41.16	10-3(m)	Ord. 1382 (5-25-99)
10.41.17	10-3(n)	Ord. 1382 (5-25-99)
10.41.18	10-3(o)	Ord. 1382 (5-25-99)
10.41.19	10-3(p)	Ord. 1382 (5-25-99)
10.41.20	10-3(q)	Ord. 1382 (5-25-99)
10.41.21	10-3(r)	Ord. 1382 (5-25-99)
10.42.01	10-4(a)(1)	Ord. 1382 (5-25-99)
10.42.02	10-4(a)(2)	Ord. 1382 (5-25-99)
10.42.03	10-4(a)(3)	Ord. 1382 (5-25-99)
10.42.04	10-4(a)(4)	Ord. 1382 (5-25-99)
10.42.05	10-4(a)(5)	Ord. 1382 (5-25-99)
10.42.06	10-4(a)(6)	Ord. 1382 (5-25-99)
10.42.07	10-4(a)(7)	Ord. 1382 (5-25-99)
10.42.08	10-4(a)(8)	Ord. 1382 (5-25-99)
10.43	10-4(b)	Ord. 1382 (5-25-99)
10.43.02	10-4(b)(1)	Ord. 1382 (5-25-99)

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10.43.02	10-4(b)(2)	Ord. 1382 (5-25-99)
10.44.01	10-4(c)(1)	Ord. 1382 (5-25-99)
10.44.02	10-4(c)(2)	Ord. 1382 (5-25-99)
10.44.03	10-4(c)(3)	Ord. 1382 (5-25-99)
10.44.04	10-4(c)(4)	Ord. 1382 (5-25-99)
10.44.05	10-4(c)(5)	Ord. 1382 (5-25-99)
10.45	10-4(d)	Ord. 1382 (5-25-99)
10.45.01	10-4(d)(1)	Ord. 1382 (5-25-99)
10.45.02	10-4(d)(2)	Ord. 1382 (5-25-99)
10.45.03	10-4(d)(3)	Ord. 1382 (5-25-99)
10.45.04	10-4(d)(4)	Ord. 1382 (5-25-99)
10.45.05	10-4(d)(5)	Ord. 1382 (5-25-99)
10.46	10-5	Ord. 1382 (5-25-99)
10.46.01	10-5(a)(1-4)	Ord. 1382 (5-25-99)
10.46.02	10-5(a)(5)	Ord. 1382 (5-25-99)
10.46.03	10-5(a)(6-8)	Ord. 1382 (5-25-99)
10.46.04	10-5(a)(9)	Ord. 1382 (5-25-99)
10.46.05	10-5(a)(10)	Ord. 1382 (5-25-99)
10.46.06	10-5(b)(1)	Ord. 1382 (5-25-99)
10.46.07	10-5(b)(2)	Ord. 1382 (5-25-99)
10.46.08	10-5(b)(3)	Ord. 1382 (5-25-99)
10.46.09	10-5(b)(4)	Ord. 1382 (5-25-99)
10.46.10	10-5(b)(5)	Ord. 1382 (5-25-99)
10.46.11	10-5(b)(6)	Ord. 1382 (5-25-99)
10.46.12	10-5(b)(7)	Ord. 1382 (5-25-99)
10.46.13	10-5(b)(8)	Ord. 1382 (5-25-99)
10.46.14	10-5(b)(9-11)	Ord. 1382 (5-25-99)
10.46.15	10-5(c)(1)	Ord. 1382 (5-25-99)
10.46.16	10-5(c)(2)	Ord. 1382 (5-25-99)
10.47	10-6	Ord. 1382 (5-25-99)
10.47.01	10-6(a)	Ord. 1382 (5-25-99)
10.47.02	10-6(b)(1)	Ord. 1382 (5-25-99)
10.47.03	10-6(b)(2)	Ord. 1382 (5-25-99)
10.47.04	10-6(b)(3)	Ord. 1382 (5-25-99)
10.47.05	10-6(b)(4)	Ord. 1382 (5-25-99)
10.47.06	10-6(b)(5)	Ord. 1382 (5-25-99)
10.47.07	10-6(b)(6)	Ord. 1382 (5-25-99)
10.47.08	10-6(b)(7)	Ord. 1382 (5-25-99)
10.47.09	10-6(b)(8)	Ord. 1382 (5-25-99)
10.47.10	10-6(b)(9)	Ord. 1382 (5-25-99)
10.47.11	10-6(b)(10)	Ord. 1382 (5-25-99)
10.47.12	10-6(b)(11)	Ord. 1382 (5-25-99)
10.47.13	10-6(b)(12)	Ord. 1382 (5-25-99)
10.47.14	10-6(b)(13)	Ord. 1382 (5-25-99)
10.47.15	10-6(c)	Ord. 1382 (5-25-99)
10.47.16	10-6(d)	Ord. 1382 (5-25-99)
10.47.17	10-6(e)	Ord. 1382 (5-25-99)
10.47.18	10-6(f)	Ord. 1382 (5-25-99)

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<b>2005 Code Section</b>	<b>1992 Code Section</b>	<b>State Law References/ Other Historical Notes</b>
10.47.19	10-6(g)	Ord. 1382 (5-25-99)
10.47.20	10-6(h)	Ord. 1382 (5-25-99)
10.47.21	10-6(i)	Ord. 1382 (5-25-99)
10.48	10-7	Ord. 1382 (5-25-99)
10.48.01	10-7(a)	Ord. 1382 (5-25-99)
10.48.02	10-7(b)	Ord. 1382 (5-25-99)
10.48.03	10-7(c)	Ord. 1382 (5-25-99)
10.48.04	10-7(d)	Ord. 1382 (5-25-99)
10.48.05	10-7(e)	Ord. 1382 (5-25-99)
10.48.06	10-7(f)	Ord. 1382 (5-25-99)
10.49	10-8	Ord. 1382 (5-25-99)
10.49.01	10-8(a)	Ord. 1382 (5-25-99)
10.49.02	10-8(b)(1-8)	Ord. 1382 (5-25-99)
10.49.03	10-8(b)(9)	Ord. 1382 (5-25-99)
10.49.04	10-8(b)(10)	Ord. 1382 (5-25-99)
10.49.05	10-8(b)(11)	Ord. 1382 (5-25-99)
10.49.06	10-8(c)	Ord. 1382 (5-25-99)
10.49.07	10-9(a-c)	Ord. 1382 (5-25-99)
10.49.08	10-9(d)	Ord. 1382 (5-25-99)
10.49.09	10-9(e)	Ord. 1382 (5-25-99)
10.49.10	10-9(f)	Ord. 1382 (5-25-99)
	36-51	Repeal
10.50.01	36-51.1(a, b, e)	Ord. 1128 (10-8-91)
10.50.02	36-51.1(c, d)	Ord. 1128 (10-8-91)
10.51.1	36-52	Code 1985, § 1040.01
10.51.2	36-53	Code 1985, § 1040.02
10.51.3	36-54	Code 1985, § 1040.03
10.51.4	36-55	Code 1985, § 1040.04
10.51.5	36-56	Code 1985, § 1040.05
10.51.6	36-57	Code 1985, § 1040.12(c), (k); Ord. 948 (5-26-87)
10.51.7	36-58	Code 1985, § 1040.06; Ord. 887 (6-24-86); Ord. 1337 (9-23-97); Ord. 1372 (2-9-99)
10.51.8	36-59	Code 1985, § 1040.07
10.51.9	36-60	Code 1985, § 1040.12(m); Ord. 858 (10-22-85); Ord. 948 (5-26-87)
10.51.10	36-61	Code 1985, § 1040.09
10.51.11	36-62	Code 1985, § 1040.12(p); Ord. 858 (10-22-85); Ord. 948 (5-26-87)
10.51.12	36-63	Code 1985, § 1040.12(e), (l); Ord. 858 (10-22-85); Ord. 948 (5-26-87)
10.51.13	36-64	Code 1985, § 1040.10
10.51.14	36-65	Code 1985, § 1040.08
10.51.15	36-66	Ord. 1125 (10-8-91)
10.51.16	36-67	Ord. 1328 (5-13-97)
10.511.01 – 10.511.11		Ord. 1720, § 2, 6-12-07
10.52.01	36-81	Code 1985, § 1040.12(j); Ord. 858 (10-22-85); Ord. 948 (5-26-87)

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<b>2005 Code Section</b>	<b>1992 Code Section</b>	<b>State Law References/ Other Historical Notes</b>
10.52.02	36-82	Code 1985 § 1040.12(o); Ord. 858 (10-22-85); Ord. 948 (5-26-87); Ord. 1290 (9-26-95)
10.52.03	36-83 (in part)	Code 1985, § 1040.12(a); Ord. 858 (10-22-85); Ord. 948 (5-26-87); Ord. 1206 (10-27-92)
10.52.04	36-83 (in part), 36-83.1	Ord. 1290 (9-26-95); Ord. 1820 (3-23-10)
10.521		Ord. 1720, § 2, 6-12-07) set out provisions intended for use as Chapter 10.521. For purposes of classification these provisions have been included as Chapter 10.511.
10.521.00--10.521.09		Ord. 1768, § 3 (8-26-08); Ord. 1821 (3-9-10)
10.53.01	36-84	Code 1985, § 1040.12(g), (i); Ord. 858 (10-22-85); Ord. 948 (5-26-87); Ord. 1290 (9-26-95)
10.53.02	36-85	Code 1985, § 1040.12(b); Ord. 858 (10-22-85); Ord. 948 (5-26-87)
10.53.03	36-86	Code 1985, § 1040.11; Ord. 829 (5-28-85); Ord. 1096 (6-26-90); Ord. 1290 (9-26-95)
10.53.04	36-87	Code 1985, § 1040.12(f), (h); Ord. 858 (10-22-85); Ord. 948 (5-26-87)
10.53.05	36-88	Ord. 1290 (9-26-95)
10.54.1--10.54.9		Ord. 1461, §§ 1--9 (1-8-02)
10.60		§ 373.203, et seq., F.S.
10.60.01	36-107	Code 1985, § 1860.01
10.60.02	36-108	Code 1985, § 1860.02
10.60.03	36-109	Code 1985, § 1860.03
10.60.04	36-110	Code 1985, § 1860.04
10.60.05	36-111	Code 1985, § 1860.05
10.70.01	36-131, 36-132	Code 1985, § 1042.02; Code 1985, § 1042.03; Ord. 1113 (10-9-90)
	36-133	Repeal
10.70.02	36-134(a)	Code 1985, § 1042.01; Ord. 1113 (10-9-90)
10.70.03	36-134(b)	Code 1985, § 1042.01; Ord. 1113 (10-9-90)
10.70.004	36-135(a)	Code 1985, § 1042.34; Ord. 1113 (10-9-90); Ord. 1147 (6-11-91)
10.70.05	36-135(b)	Code 1985, § 1042.34; Ord. 1113 (10-9-90); Ord. 1147 (6-11-91)
10.70.06	36-136	Code 1985, § 1042.40; Ord. 1113 (10-9-90)
10.70.07	36-137	Code 1985, § 1042.04; Ord. 1113(10-9-90); Ord. 1128 (10-8-91)
10.70.08	36-138	Code 1985, § 1042.06; Ord. 1113 (10-9-90)
10.70.09	36-139	Code 1985, § 1042.30(e); Ord. 1113 (10-9-90)
10.70.10	36-140	Code 1985, § 1042.33(i); Ord. 1113 (10-9-90)
10.70.11	36-141	Code 1985, § 1042.33(j); Ord. 1113 (10-9-90)
10.70.12	36-142	Code 1985, § 1444.03; Ord. 505.5 (2-22-77)
10.71.01	36-161	Code 1985, § 1042.05(a); Ord. 1113 (10-9-90)
10.71.02	36-162	Code 1985, § 1042.05(b); Ord. 1113 (10-9-90)
10.71.03	36-163	Code 1985, § 1042.05(c); Ord. 1113 (10-9-90)
10.71.04	36-164	Code 1985, § 1042.05(c); Ord. 1113 (10-9-90)
10.71.05	36-165	Code 1985, § 1042.30(a)--(d); Ord. 1113 (10-9-90)

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<b>2005 Code Section</b>	<b>1992 Code Section</b>	<b>State Law References/ Other Historical Notes</b>
10.71.06	36-166	Code 1985, § 1042.31; Ord. 1113 (10-9-90)
10.71.07	36-167	Code 1985, § 1042.05(e); Ord. 1113 (10-9-90)
10.71.08	36-168	Code 1985, § 1042.05(f); Ord. 1113 (10-9-90)
10.71.09	36-169	Code 1985, § 1042.05(g); Ord. 1113 (10-9-90)
10.71.10	36-170	Code 1985, § 1042.05(h); Ord. 1113 (10-9-90)
10.71.11	36-171	Code 1985, § 1042.05(i); Ord. 1113 (10-9-90)
10.71.12	36-172	Code 1985, § 1042.05(j); Ord. 1113 (10-9-90)
10.71.13	36-173	Code 1985, § 1042.05(k); Ord. 1113 (10-9-90)
10.71.14	36-174	Code 1985, § 1042.05(l); Ord. 1113 (10-9-90)
10.71.15	36-175	Code 1985, § 1042.05(m); Ord. 1113 (10-9-90)
10.72.01	36-191	Code 1985, § 1042.18; Ord. 1113 (10-9-90)
10.72.02	36-192	Code 1985, § 1042.07; Ord. 1113 (10-9-90)
10.72.03	36-193	Code 1985, § 1042.08; Ord. 1113 (10-9-90); Ord. 1147 (6-11-91)
10.72.04	36-194	Code 1985, § 1042.09; Ord. 1113 (10-9-90)
10.72.05	36-195	Code 1985, § 1042.10; Ord. 1113 (10-9-90)
10.72.06	36-196	Code 1985, § 1042.11; Ord. 1113 (10-9-90)
10.72.07	36-197	Code 1985, § 1042.12; Ord. 1113 (10-9-90)
10.72.08	36-198	Code 1985, § 1042.13; Ord. 1113 (10-9-90)
10.72.09	36-199	Code 1985, § 1042.14; Ord. 1113 (10-9-90)
	36-200	Repeal
10.72.10	36-201	Code 1985, § 1042.16; Ord. 1113 (10-9-90)
10.72.11	36-202	Code 1985, § 1042.16; Ord. 1113 (10-9-90)
10.72.12	36-203	Code 1985, § 1042.25; Ord. 1113 (10-9-90); Ord. 1147 (6-11-91)
10.72.13	36-204	Code 1985, § 1042.26; Ord. 1113 (10-9-90)
10.72.14	36-205	Code 1985, § 1042.27; Ord. 1113 (10-9-90); Ord. 1147 (6-11-91)
10.72.15	36-206	Code 1985, § 1042.28; Ord. 1113 (10-9-90)
10.73.01	36-207(a)	Ord. 1567 (8-26-03)
10.73.02	36-207(b)	Ord. 1567 (8-26-03)
10.73.03	36-207(c)	Ord. 1567 (8-26-03)
10.73.04	36-207(d)	Ord. 1567 (8-26-03); Ord. 1709, § 3, (8-22-06)
10.73.05	36-207(e)	Ord. 1567 (8-26-03)
10.73.06	36-207(f)	Ord. 1567 (8-26-03)
10.74.01	36-226(a)	Code 1985, § 1042.19; Ord. 1113 (10-9-90)
10.74.02	36-226(b)	Code 1985, § 1042.19; Ord. 1113 (10-9-90)
10.74.03	36-226(b)(9)	Code 1985, § 1042.19; Ord. 1113 (10-9-90)
10.74.04	36-227	Code 1985, § 1042.20; Ord. 1113 (10-9-90)
10.74.05	36-228	Code 1985, § 1042.21; Ord. 1113 (10-9-90)
10.74.06	36-229	Code 1985, § 1042.22; Ord. 1113 (10-9-90)
10.74.07	36-230	Code 1985, § 1042.23; Ord. 1113 (10-9-90)10.74.08
	36-231(a)	Code 1985, § 1042.24; Ord. 1113 (10-9-90); Ord. 1147 (6-11-91)
10.74.09	36-231(b)	Code 1985, § 1042.24; Ord. 1113 (10-9-90); Ord. 1147 (6-11-91)
10.74.10	36-232	Code 1985, § 1042.35; Ord. 1113 (10-9-90)

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10.74.11	36-233	Code 1985, § 1042.36; Ord. 1113 (10-9-90); Ord. 1147 (6-11-91)
10.74.12	36-234	Code 1985, § 1042.37; Ord. 1113 (10-9-90)
10.74.13	36-235	Code 1985, § 1042.37; Ord. 1113 (10-9-90)
10.75.01	36-251	Code 1985, § 1042.32; Ord. 1113 (10-9-90)
10.75.02	36-252(in part)	Code 1985, § 1042.33(a)--(h); Ord. 1113 (10-9-90); Ord. 1206 (10-27-92); Ord. 1290 (9-26-95)
10.75.03	36-252(a)	Code 1985, § 1042.33(a)--(h); Ord. 1113 (10-9-90); Ord. 1206 (10-27-92); Ord. 1290 (9-26-95)
10.75.04	36-252(b)(1)	Code 1985, § 1042.33(a)--(h); Ord. 1113 (10-9-90); Ord. 1206 (10-27-92); Ord. 1290 (9-26-95)
	36-252(b)(2),(3)	Repeal
10.75.05	36-252(b)(3, in part)	Code 1985, § 1042.33(a)--(h); Ord. 1113 (10-9-90); Ord. 1206 (10-27-92); Ord. 1290 (9-26-95)
10.75.06	36-252(b)(5)	Code 1985, § 1042.33(a)--(h); Ord. 1113 (10-9-90); Ord. 1206 (10-27-92); Ord. 1290 (9-26-95)
10.75.07	36-252(b)(6)	Code 1985, § 1042.33(a)--(h); Ord. 1113 (10-9-90); Ord. 1206 (10-27-92); Ord. 1290 (9-26-95)
10.75.08	36-252(b)(7)	Code 1985, § 1042.33(a)--(h); Ord. 1113 (10-9-90); Ord. 1206 (10-27-92); Ord. 1290 (9-26-95)
10.75.09	36-252(b)(8)	Code 1985, § 1042.33(a)--(h); Ord. 1113 (10-9-90); Ord. 1206 (10-27-92); Ord. 1290 (9-26-95)
10.75.10	36-253	Code 1985, § 1040.12(n); Ord. 1113 (10-9-90)
10.80.01	36-271	Code 1985, § 1080.01; Ord. 1025 (2-28-89); Ord. 1170 (10-8-91); Ord. 1792 (1-26-10)
	36-272	Repeal
10.80.02, et seq	36-273	Code 1985, § 1080.12; Ord. 1025 (2-28-89); Ord. 1336 ( § 2 (10-14-97); Ord. 1792 (1-26-10)
10.80.03, et seq		Ord. 1792 (1-26-10)
10.80.04		Ord. 1792 (1-26-10)
10.80.05		Ord. 1792 (1-26-10)
10.80.06		Ord. 1792 (1-26-10)
10.80.07		Ord. 1792 (1-26-10)
10.80.08		Ord. 1792 (1-26-10)
10.80.09		Ord. 1792 (1-26-10)
10.80.10		Ord. 1792 (1-26-10)
10.80.11		Ord. 1792 (1-26-10)
10.81.01, et seq	36-274, et seq	Code 1985, § 1080.02; Ord. 922 (2-10-87); Ord. 1025 (2-28-89); Ord. 1170, § II (10-8-91); Ord. 1792 (1-26-10)
10.81.02	36-275	Code 1985, § 1080.09(h); Ord. 883 (5-27-86); Ord. 984 (3-3-88); Ord. 1025 (2-28-89); Ord. 1170 (10-8-91); Ord. 1792 (1-26-10)
10.81.03	36-276	Code 1985, § 1080.03; Ord. 1025 (2-28-89); Ord. 1170 (10-8-91); Ord. 1792 (1-26-10)
10.81.04	36-277	Code 1985, § 1080.05; Ord. 1792 (1-26-10)
10.81.05	36-278	Code 1985, § 1080.06; Ord. 1792 (1-26-10)

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<b>2005 Code Section</b>	<b>1992 Code Section</b>	<b>State Law References/ Other Historical Notes</b>
10.81.06	36-279	Code 1985, § 1080.07; Ord. 1170 (10-8-91); Ord. 1792 (1-26-10)
10.81.07	36-280	Code 1985, § 1080.08; Ord. 1170 (10-8-91); Ord. 1336 (10-14-97); Ord. 1792 (1-26-10)
10.81.08	36-281(a, b)	Code 1985, § 1080.04; Ord. 1170 (10-8-91); Ord. 1792 (1-26-10)
10.81.09	36-281(c, d)	Code 1985, § 1080.04; Ord. 1170 (10-8-91); Ord. 1792 (1-26-10)
10.82.01	36-296, in part	Code 1985, § 1080.09(a)--(g), (i), (j); Ord. 883 (5-27-86); Ord. 984 (3-3-88); Ord. 1025 (2-28-89); Ord. 1170 (10-8-91); Ord. 1290 (9-26-95); Ord. 1792 (1-26-10)
10.82.02	36-296, in part	Code 1985, § 1080.09(a)--(g), (i), (j); Ord. 883 (5-27-86); Ord. 984 (3-3-88); Ord. 1025 (2-28-89); Ord. 1170 (10-8-91); Ord. 1290 (9-26-95); Ord. 1771, § II (9-23-08); Ord. 1792 (1-26-10)
10.82.03	36-296, in part	Code 1985, § 1080.09(a)--(g), (i), (j); Ord. 883 (5-27-86); Ord. 984 (3-3-88); Ord. 1025 (2-28-89); Ord. 1170 (10-8-91); Ord. 1290 (9-26-95); Ord. 1792 (1-26-10)
10.82.04	36-297	Code 1985, § 1080.10; Ord. 1085 (2-28-89); Ord. 1170 (10-8-91); Ord. 1792 (1-26-10)
10.82.05	36-298	Code 1985, § 1080.11; Ord. 1025 (2-28-89); Ord. 1170 (10-8-91); Ord. 1792 (1-26-10)
10.90.01	30-2	Code 1985, § 1020.01
10.90.02	30-3	Code 1985, § 1020.03; Ord. 843 (8-13-85)
10.90.03	30-4	Code 1985, § 1020.04; Ord. 451(1-11-86
10.90.04	30-5	Code 1985, § 1020.06
10.90.50	30-7	Code 1985, § 1020.08; Ord. 843 (8-13-85)
10.90.60	30-8(a, b)	Code 1985, § 1020.09; Res. 89-50 (11-28-89)
10.90.061	30-8(c)	Code 1985, § 1020.09; Res. 89-50 (11-28-89)
10.90.07	30-9	Ord. 1128 (10-8-91)
10.90.08	30-10	Ord. 1128 (10-8-91)
10.91.01	30-11(a)	Ord. 1128 (10-8-91)
10.91.02	30-11(b)	Ord. 1128 (10-8-91)
10.91.03	30-11(c)	Ord. 1128 (10-8-91)
10.91.04	30-11(d)	Ord. 1128 (10-8-91)
10.91.05	30-11(e)	Ord. 1128 (10-8-91)
10.91.06	30-11(f)	Ord. 1128 (10-8-91)
10.91.07	30-11(g)	Ord. 1128 (10-8-91)
10.92.01	30-12(a)	Ord. 1128 (10-8-91)
10.92.02	30-12(b)	Ord. 1128 (10-8-91)
10.92.03	30-12(c)	Ord. 1128 (10-8-91)
10.92.04	30-13(a)	Ord. 1348 (6-9-98)
10.92.05	30.13(b)	Ord. 1348 (6-9-98)
10.93.01	30-26	Code 1985, § 1022.01
10.93.02	30-27	Code 1985, § 1022.02; Ord. 844 (8-13-85)
10.93.03	30-28	Code 1985, § 1022.03
10.93.04	30-29	Code 1985, § 1022.04
10.93.041	30-30	Code 1985, § 1022.05

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<b>2005 Code Section</b>	<b>1992 Code Section</b>	<b>State Law References/ Other Historical Notes</b>
10.93.05	30-31	Code 1985, § 1022.06; Ord. 844 (8-13-85)
10.93.051	30-32	Code 1985, § 1022.07; Ord. 844 (8-13-85)
10.93.052	30-33	Code 1985, § 1022.08
10.93.06	30-34	Code 1985, § 1022.09
10.93.061	30-35	Code 1985, § 1022.10
10.93.062	30-36	Code 1985, § 1022.11
10.93.063	30-37	Code 1985, § 1022.12
10.93.064	30-38	Code 1985, § 1022.13; Ord. 1236 (11-23-93)
10.93.065	30-39	Ord. 1236 (11-23-93)
10.93.066	30-40	Ord. 1236 (11-23-93)
	30-41	Repealed, Ord. 1676 (22-11-05)
10.100.01	30-61	Ord. 1613 (11-9-04)
10.100.02	30-62	Ord. 1613 (11-9-04)
10.100.03	30-63	Ord. 1613 (11-9-04)
10.100.04	30-65	Ord. 1613 (11-9-04)