



# VILLAGE OF WHISPERING PINES CODE OF ORDINANCES



## Chapter E – Health Protection and Disease Prevention (Chapter-wide Amendment 5/13/20)

### Article I – Health and General Welfare

#### **Section 1. Authority of the Village**

The Village has the authority and the duty to protect the health and general welfare of the citizens of the Village and its Extraterritorial Jurisdiction (ETJ). In fulfilling these obligations, the Manager, or his or her designee, shall have the authority to investigate anything, which may be brought to the attention of Village staff or the Council that is alleged to be dangerous or prejudicial to the public health at any place within the Village and its ETJ. The Council may direct the Manager to take such action as may be necessary to summarily remove, abate, or remedy anything that is determined to be dangerous or prejudicial to the public health in said areas in accordance with the provisions of Code of Ordinances Chapter E, Article II.

#### **Section 2. Cooperation with County and State Health Officials**

When necessary, the Manager, or his or her designee, shall work in cooperation and coordination with the County and State Health Officials in all matters relating to the violation of the Public Health Laws within the Village and its ETJ, in accordance with policies established by the Council, Ordinances of the County of Moore and the General Statutes and Rules and Regulations of the State of North Carolina pertaining thereto.

### Article II – Abatement of Public Nuisances

#### **Section 1. The Code Enforcement Official**

The Code Enforcement Official (CEO) has full power and authority imposed by this chapter and is hereby authorized and directed to proceed to carry out its provisions.

#### **Section 2. Unlawful to Hinder Village Official**

It shall be unlawful for any person to hinder, obstruct, or delay a Village Official in the lawful discharge of his duties pursuant to this Article.

#### **Section 3. Right to Enter**

The Village Official shall have the right to enter, at any reasonable time, any premises for the purpose of making the inspections or investigations as required by this Chapter. The Village Official shall have the right, on his or her own authority, to apply for, and receive administrative search warrants in order to carry out an investigation into a violation of this Article.

**Section 4. Nuisances Prohibited, Enumeration**

The following enumerated and described conditions are hereby found, deemed and declared to constitute a detriment, danger and hazard to the health, safety, morals, and general welfare of the inhabitants of the Village and the area one mile from the borders of the Village, and are found, deemed and declared to be public nuisances wherever the same may exist and the creation, maintenance, or failure to abate any nuisances is hereby declared unlawful:

- A. Any condition which is an open place of collection of stagnant water and is a breeding ground or harbor for mosquitoes or a breeding ground or harbor for rats or other pests; or
- B. Is a place of growth of poison sumac (*Rhus vemix*), poison ivy (*Rhus radicans*), or poison oak (*Rhus toxicodendron*) and other noxious vegetation; or
- C. Weeds (a plant that tends to overgrow or choke out more desirable plants) or grass in excess of eight (8) inches in height; or
- D. Any concentration of combustible items such as mattresses, boxes, paper, automobile tires and tubes, garbage, trash, refuse, brush, old clothes, rags, or any other combustible materials or objects of a like nature; or
- E. Any concentration of building materials including piles of dirt, rock, sand, concrete, steel or masonry which are in open places; or
- F. Any open place of collections of garbage, food waste, animal waste or any other rotten or putrescible matter of any kind; however, nothing in this subsection shall be construed to prevent the generally accepted use of a properly maintained compost pile or storage of animal manure being used as fertilizer for lawns and gardens and for other agricultural or horticultural purposes; or
- G. Any privy on a property with the exception of those required for construction activities, provided by the Village in park areas, on golf courses and where permission has been granted for their use at special events conducted in the Village; or
- H. Any furnishing, appliances or equipment intended for interior household use which are visible from the road or adjoining properties; or
- I. Any products which have jagged edges of metal or glass or areas of confinement such as exist in appliances which are kept in open places; or

- J. Any open place of concentration of discarded bottles, cans or medical supplies; or
- K. Any collection of water for which no adequate natural drainage is provided and which is or is likely to become a nuisance and a menace to health; or
- L. Any accessory structure (deck, dock, bulkhead, fence, etc.) or recreational equipment declared to be a safety hazard; or
- M. Any structure in a major state of disrepair for a period that exceeds ninety (90) days from date of notice by the CEO, found to have:
  - 1. Broken windows; or
  - 2. Peeling or unfinished wood surfaces (excluding decks) visible from the road or adjoining properties; or
  - 3. Tarps, sheets, plastic or other temporary repair measures covering portions of the home; or
  - 4. Any other structure specifically declared to be a public nuisance by the Council.
- N. Any unlicensed and unregistered motor vehicle or equipment on private property that is determined and declared to be a health or safety hazard, including a vehicle found to be:
  - 1. A breeding ground or harbor for mosquitoes or other disease carrying insects or a breeding ground or harbor for rats or other disease bearing animals; or
  - 2. A point of concentration of combustible items such as gasoline, oil, other flammable or explosive materials including but not limited to boxes, paper, old clothes, rags, refuse, or any other combustible materials or objects of a like nature; or
  - 3. One which has parts thereof which may fall and injure members of the public or one which may have parts which fall or be closed and become an area of confinement which may not be released for opening from the inside; or
  - 4. One which is so situated and located that there is a danger of the vehicle falling, rolling, turning over, or creating an unsafe movement such as unattended, blocked or jacked vehicles; or
  - 5. One which is a point of collection of garbage, food waste, animal waste, or any other rotten matter of any kind; or
  - 6. One which has parts thereof which are jagged or contain sharp edges of metal or glass; or
  - 7. Any other vehicle specifically declared to be a public nuisance by the Council.

- O. Any structure damaged by fire or other causes to the extent the structure cannot be safely occupied. It shall be the property owner's responsibility to document and report to the CEO the status of the fire damaged property with reference to investigations, insurance claims, and plans for reconstruction or demolition within 30 days after the damage occurs and each month thereafter until the damage is abated; provided however:
1. Such structure shall not be declared a nuisance if reconstruction or demolition cannot be initiated due to ongoing investigations or until insurance claims are paid. The property owner shall be responsible to provide written documentation of any conditions preventing initiation of reconstruction or demolition.
  2. Such structure shall not be declared a nuisance if reconstruction or demolition is initiated within six months of the damage and completed in a timely manner.
- P. Any other condition specifically declared to be a public nuisance by the Council, provided such condition is recognized by law as a public nuisance.

**Section 5. Nuisance Abatement Procedures.**

When any public nuisance as set out in this Article is found to exist on any property, including rights-of-way and easements within the Village and one (1) mile beyond the Village limits, the following procedures shall be followed:

- A. The CEO shall immediately notify, in writing the owner of the premises, and occupant if different than the owner, where the nuisance is located that:
1. The conditions identified in the notice of violation exist which constitute a public nuisance;
  2. The Ordinance provision(s) identified by Ordinance section number are violated by the stated conditions on the property;
  3. The property may have been posted on the date of the nuisance notice of violation, in a prominent location on the street facing facade of any building, with a placard or other appropriate means of notice declaring the property is a public nuisance property;
  4. If the nuisance is not abated within ten (10) business days, the CEO will begin assessing civil penalties in accordance with Chapter J.
  5. Unless the public nuisance is abated within ten (10) business days from the mailing of the notice, the CEO may also, in addition to or as an alternative to levying civil penalties, initiate the procedures to abate the conditions constituting a nuisance, including, but not

- limited to retaining outside contractors to abate the conditions constituting the nuisance.;
6. The cost of abatement, including an administrative fee of one hundred seventy-five dollars (\$175.00), also including the cost, if any to restore areas which were formerly a nuisance, shall constitute a lien against the premises.
  7. The property owner has ten (10) business days in which to file with the Clerk a notice of appeal to the Planning and Zoning Board (PZ).
- B. The CEO shall post the notice on the front door of the property and send a copy of the notice by first class mail to the address of the owner, as shown on the tax scrolls, and a copy to the address of the property.
- C. The Council, upon the recommendation of the CEO shall make, and may from time to time alter and amend, guidelines to be used by the CEO in the implementation of the procedures to be used for posting nuisance notices of violation. The CEO, to the extent required by law, shall make application for and obtain any permit required prior to undertaking the activities to abate the nuisance.
- D. The CEO is hereby given full power and authority to enter upon the premises involved for the purpose of posting the property as a public nuisance and to abate the nuisance found to exist as herein set out. Within the ten (10) day period mentioned in subsection (A) hereof the owner or the occupant of the property where the nuisance exists may appeal the findings of the CEO made pursuant to subsection (A) hereof to the PZ Board by giving written notice of appeal to the Clerk, the appeal will stay the levying of civil penalties or the abatement of the nuisances by the CEO until a final determination by the PZ Board. The PZ Board shall hear the appeal expeditiously. In the event no appeal is taken, the CEO may proceed to levy civil penalties or abate the nuisance or both.
- E. In the event an appeal is taken as provided herein, the PZ Board may, after hearing all interested persons and reviewing the findings of the CEO, reverse the finding made pursuant to subsection (A) hereof. If the PZ Board shall determine that the findings of the CEO are correct and proper it shall specifically declare the provisions of this ordinance on which the PZ Board has relied in rendering its decision and direct the CEO to issue civil penalties to enforce the ordinance, or cause the conditions to be abated, or both, subject to such reasonable conditions or time requirements as the PZ Board may provide.
- F. After the abatement of the nuisance as provided for herein, the CEO shall prepare an affidavit of costs, which shall include the \$175 administrative fee, and shall send a copy of this affidavit to the owner of the premises

where the nuisance existed. Such owner may appeal the amount of such costs to the PZ Board by giving written notice of appeal to the Clerk not later than ten (10) days after the date the affidavit of costs was sent. The PZ Board shall hear the appeal expeditiously, following reasonable notice to the appellant and the CEO and may confirm or modify the statement of costs as it deems appropriate based upon the evidence presented in the appeal. If no notice of appeal is filed, then the costs stated in the affidavit of costs shall become a lien as provided in G.S. 160A-193, effective on the date and time provided in the affidavit, and the CEO shall record a Claim of Lien with the Registrar of Deeds. In the event of an appeal, then the amount of costs determined to be appropriate by the PZ Board shall become a lien as provided in G.S. 160A-193, effective on the date and time of the PZ Board's decision as recorded in the PZ Board's minutes, and the CEO shall record a Claim of Lien with the Registrar of Deeds.

- G. In any abatement of a nuisance involving a motor vehicle, the CEO shall follow the procedures for disposal of such vehicles as are set forth in Chapter D, Article V.

#### **Section 6. Civil Penalty**

Any owner of a property within the Village and in the area extending one (1) mile beyond the Village boundary who is notified pursuant to Chapter E, Article II, Section 5 that the property is a public nuisance as provided in Chapter E, Article II, Section 4 shall be subject to a civil penalty of fifty dollars (\$50.00) per day for each day that the nuisance has been found to have existed.

#### **Section 7. Sales of Foods – Eating Establishments**

All persons, firms or corporations selling food of any kind or serving prepared meals shall comply with all requirements pertaining thereto of the North Carolina Division of Health Services.

#### **Section 8. Debris from Clearing of Property and from Construction**

All trees, brush, trash and debris resulting from clearing of property and all building materials including piles of dirt, rock and sand, concrete, steel or masonry, lumber, refuse, lumber, trash, debris, or junk remaining either as a result of the repair of any building, or the erection and completion of any new buildings, shall be removed by the property owner within ten (10) days from and after the completion of the aforesaid work.

#### **Section 9. Water Wells**

It shall be unlawful for any person, firm or corporation to dig or drill a well on any private property within the Village without first complying with the following:

- A. Filing with the Village a site plan of the property showing the location of septic tanks and all drainage lines and the proposed locations of such private well;
- B. Obtaining the approval for such a well by the Moore County Health Department, certifying that the proposed location is in accordance with all its requirements, will not interfere with or be affected by the installation of septic tanks or drainage fields on adjacent property and will not be detrimental to the health and safety of the property owner or anyone else;
- C. Obtaining a permit from the Village and paying a fee as specified in Chapter A;
- D. The water shall be used solely for irrigation or heat pump circulation and may not under any circumstances, be used for drinking water, household purposes or swimming pools.

### **Section 10. Emergency Operations Plan**

The provisions of the Village Emergency Operations Plan, adopted January 9, 2013, and the Moore County Emergency Operations Plan, Multi-Hazards: dated July, 1993, together with any amendment hereafter enacted thereto, are hereby incorporated by reference and made a part of this Code of Ordinances the same as if set forth herein verbatim.

## **Article III – Minimum Housing and Nonresidential Structures Ordinance**

### **Section 1. Purpose**

Pursuant to G.S. § 160A-439 and G.S. § 160A-441, *et seq.*, it is hereby found and declared that there exist in the Village residential and nonresidential structures which are unfit for human habitation or use due to dilapidation, defects increasing the hazards of fire, accidents and other calamities, lack of ventilation, light and sanitary facilities, and due to other conditions rendering the structures unsafe or unsanitary, and dangerous and detrimental to the health, safety and morals, an otherwise inimical to the welfare of the residents of the Village.

In order to protect the health, safety and welfare of the residents of the Village, as authorized by G.S. § 160A-439 and G.S. § 160A-441, *et seq.*, it is the purpose of this article to establish minimum standards of fitness for the initial and continued occupancy or use of all buildings used for residential or nonresidential purposes, as expressly authorized by G.S. § 160A-439 and G.S. § 160A-441, *et seq.*

### **Section 2. Applicability and Scope**

The provisions of this article shall apply to all dwellings and nonresidential structures located within the planning jurisdiction of the Village, which includes

areas within the corporate limits and the ETJ, irrespective of when such dwellings and structures were constructed, altered or repaired.

**Section 3. Compliance with the North Carolina State Building Code**

All buildings or structures which are hereafter constructed, reconstructed, erected, altered, extended, enlarged, repaired, demolished or moved shall conform to the requirements, minimum standards, and other provisions of the current version of the North Carolina State Building Code.

**Section 4. Definitions**

Unless expressly stated in this Section, all definitions shall have the meaning ascribed to them in G.S. § 160A-439 and G.S. 160A-441, *et seq.*, the North Carolina State Building Code, and the Village Land Development Ordinance.

**Agent** - Any person, firm or corporation who is responsible for the management, maintenance, operation, renting, leasing or sale of any property, or who makes application for or seeks a permit or certificate on behalf of the owner or who in any other way represents the owner in any particular case.

**Code Enforcement Official (CEO)** – For the purposes of this article, means the Manager, or his or her designee, which persons are authorized and directed to carry out the enforcement of this article.

**Deteriorated** - A residential or nonresidential structure which is unfit for human habitation or use and can be repaired, altered, or improved to comply with all of the minimum standards established by this article, at a cost not in excess of fifty (50) percent of its then current value, as determined by finding of the CEO. The value of the structure shall be presumed to be the listed tax value of the structure, unless the owner or occupant presents evidence from an appraiser, builder, engineer, architect, or other competent source that demonstrates a different value.

**Dilapidated** - A residential or nonresidential structure which is unfit for human habitation or use and cannot be repaired, altered or improved to comply with all of the minimum standards of this article at a cost not in excess of fifty (50) percent of its then current value, as determined by a finding of the CEO. The value of the structure shall be presumed to be the listed tax value of the structure, unless the owner or occupant presents evidence from an appraiser, builder, engineer, architect, or other competent source that demonstrates a different value.

**Dwelling** - Any building, structure, manufactured home or mobile home, or part thereof, used and occupied for human habitation or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith, except that it does not include any manufactured home or mobile

home, which is used solely for a seasonal vacation purpose. Temporary family health care structures, as defined in G.S. § 160A-383.5, shall be considered dwellings for purposes of this article, provided that any ordinance provision requiring minimum square footage shall not apply to such structures.

**Dwelling Unit** - A habitable space occupied or intended for occupation as a single housekeeping unit with facilities which are used or intended for use for living, sleeping, cooking and eating. In the case of a rooming house or boardinghouse, a "dwelling unit" shall also include that portion of the house under the control of the occupant, even if said space does not include facilities for cooking and eating.

**Excessive** - Exceeding what is usual, proper, necessary, or normal.

**Extermination** - The control and elimination of insects, rodents, or other pests by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating, trapping, or by any other recognizable and legal pest elimination method approved by the CEO.

**Garbage** - The animal and vegetable waste resulting from the handling, preparation, cooking, and consumption of food.

**Habitable Space and Habitable Room** - Any room or enclosed floor space in a structure used or intended for use for living or sleeping and finished basements, but excluding bathrooms, half-baths, halls, corridors, pantries, storage space, closets, laundries, kitchens and other spaces not used frequently or for extended periods.

**Infestation** - The presence, within or around a residential or nonresidential structure, of any insects, rodents, or other pests in a number as to constitute a menace to the health, safety, or welfare of the occupants or public.

**Manufactured Home or Mobile Home** - A structure as defined in G.S. § 143-145(7).

**Occupant** - Any person over one year of age, living, sleeping, cooking, eating, shopping, or otherwise occupying a residential or nonresidential structure.

**Operator** - Any person who has charge, care or control of a residential or nonresidential structure, or part thereof.

**Owner** - Any person who alone, or jointly, or severally with others:

1. The holder of the title in fee simple;
2. Every mortgagee of record;

3. Any person having charge, care, or control of any residential or nonresidential structure, as the agent of the owner or as executor, executrix, trustee, or guardian of the estate of the owner. Any person thus representing the actual owner shall be bound to comply with the provisions of this article to the same extent as if he or she were the owner.

**Parties in Interest** - All individuals, associations and corporations who have interests of record in a dwelling or any nonresidential structure and any who are in possession thereof.

**Person** - Any individual, firm, co-partnership, corporation, company or association, and shall include any personal representative, trustee, receiver, assignee or other similar representative.

**Public Authority** - Any housing authority or any officer who is in charge of any department or branch of the government of the Village, County, or State relating to health, fire, building regulations, or other activities concerning dwellings or nonresidential structures in the Village.

**Removal** - The demolition and removal of the entire structure, leaving the property free and clear of debris and without holes or pockets which may retain water.

**Rooming House or Boardinghouse** - Any housing or part of any housing containing one or more dwelling units in which space is let by the owner or operator to four or more persons who are not members of the family of the owner or operator.

**Structure** - A walled and roofed building that is principally above ground and constructed or erected, the use of which requires location on land. Additionally, and for the purposes of this article, a structure is anything constructed, placed, or otherwise used or occupied as a dwelling or nonresidential structure.

**Substantial** - A structure is firmly constructed, sturdy, safe, sound, solid, or stout in a manner to adequately perform its original purpose.

**Tenant** - A person, co-partnership, firm or corporation occupying or using a building, premises or any part thereof owned by another.

**Unfit for Human Habitation or Use** - Conditions which exist in a dwelling, dwelling unit, or nonresidential structure, or portion thereof, which violate or do not comply with one or more of the minimum standards of fitness or one or more of the requirements established by this article.

**Village Official** - Any official representing or acting on behalf of the Village, including, but not limited to, the CEO.

**Section 5. Responsibilities of the Occupant**

The occupant shall be responsible for the following:

- A. Sanitary maintenance. Every occupant of a dwelling, dwelling unit, or nonresidential structure shall keep in a clean and sanitary condition that portion of the premises which he or she occupies and controls. A clean and sanitary condition shall include, but is not limited to, the following standards:
  - 1. Floors, floor coverings and other walking surfaces shall be kept clean and free of dirt, filth, garbage, human and animal wastes, litter, refuse and any other unsanitary matter; and
  - 2. Walls, ceilings, windows and doorways shall be kept clean and free of dirt, greasy film, soot and any other unsanitary matter; and
  - 3. Plumbing fixtures shall be kept in a clean and sanitary condition; and no material shall be deposited in any such fixture which may result in the obstruction of such fixture or of any lines connected thereto. Every occupant shall be responsible for the exercise of reasonable care in the proper use and operation of all plumbing fixtures; and
  - 4. All screens on windows and doors shall be maintained in good condition. This subsection shall not be construed as requiring any occupant to furnish and install, or cause to be installed, screens on windows or doors at any dwelling.
- B. Pest control. Every occupant shall be responsible for the extermination of insects, rodents, or other pests for that portion of the premises which he or she occupies and controls. Said premises shall be maintained free of insects, vermin, and rodent harborage and infestation by generally accepted methods of extermination.
- C. Garbage and rubbish. Every occupant of a dwelling, dwelling unit, or nonresidential structure shall dispose of all garbage and refuse in a clean and sanitary manner and place it in a proper receptacle as required by this code. Discarded or abandoned articles of such bulk as to preclude disposal in such receptacles and refuse not otherwise collected by the Village shall be conveyed by the occupant to a landfill.
- D. Heat. Where the heating facilities of any dwelling, dwelling unit, or nonresidential structure are under the control of the occupant, it shall be the responsibility of the occupant to operate such facilities in order to maintain above-freezing temperatures at all times in all portions of the

- dwelling, dwelling unit, or nonresidential structure which he or she occupies and controls.
- E. Removal of required services, facilities, etc. No occupant shall cause any service, facility, equipment, or utility, which is required under this article, to be removed or shut off from, or discontinued for, any occupied dwelling, dwelling unit, or nonresidential structure occupied by him or her, except as needed during repair or maintenance work or during an emergency.
  - F. Accumulation of materials inside dwelling. Accumulation or storage of items or materials that result in dangerous, unsafe, or hazardous conditions shall not be permitted in any habitable portion of a dwelling, dwelling unit, or nonresidential structure.

### **Section 6. Responsibilities of the Owner**

The owner shall be responsible for the following:

- A. Prohibited occupancy. No owner shall occupy or lease or permit the subletting to another for occupancy any dwelling, dwelling unit, or nonresidential structure which does not comply with the provisions of this article.
- B. Number of occupants. Every owner or agent of an owner shall advise the occupant, in writing, of the maximum number of occupants permitted in the dwelling, dwelling unit, or nonresidential structure being leased or rented.
- C. Sanitary maintenance. Every owner of a residential structure containing more than one dwelling unit or nonresidential structure containing more than one unit shall maintain the common areas of said structure and its premises in a clean and sanitary condition.
- D. Garbage and rubbish. Every owner of a residential structure containing more than one dwelling unit or nonresidential structure containing more than one unit, the owner shall provide, in a location accessible to all building occupants, an adequate number of receptacles or a stationary bulk refuse container (for example, a dumpster) into which garbage and rubbish from the dwelling units or nonresidential units may be emptied. Any stationary bulk refuse container provided by the owner shall meet all the capacity specifications as stated in this code. The area surrounding the receptacles provided by the owner or the stationary bulk refuse container shall be maintained in such a way as to prevent the scattering of garbage or refuse on the ground.

- E. Removal of required services, facilities, etc. No owner or agent of an owner shall cause any service, facility, equipment, or utility, which is required under this article, to be removed or shut off from, or discontinued for, any occupied dwelling, dwelling unit, or nonresidential structure, except as needed during repair or maintenance work, during an emergency, pursuant to the terms of a valid lease, or pursuant to a court order.
- F. Pest control. Every owner of a residential structure containing more than one dwelling unit or nonresidential structure containing more than one unit shall be responsible for the extermination of rodents and other pests in the common areas of the structure and premises thereof by an approved method. The owner of any structure shall be responsible for extermination within the structure prior to renting or leasing any unit. Such extermination shall include, but is not limited to the following:
1. Preventing the entrance by blocking or stopping up all passages, by which rats and other rodents may secure entry from the exterior with rodent impervious material; and
  2. Providing screens or such other devices for basement windows which might provide a point of entry for rodents.
- G. Heat source required.
1. Every dwelling and dwelling unit leased as rental property shall have, at a minimum, a central or electric heating system or sufficient chimneys, flues, or gas vents, with heating appliances connected, so as to heat at least one habitable room, excluding the kitchen, to a minimum temperature of sixty-eight (68) degrees Fahrenheit measured three (3) feet above the floor with an outside temperature of twenty (20) degrees Fahrenheit.
  2. If a dwelling or dwelling unit contains a heating system or heating appliances that meet the requirements of subsection (G)(1) of this section, the owner of the dwelling or dwelling unit shall not be required to install a new heating system or heating appliances, but the owner shall be required to maintain the existing heating system or heating appliances in a good and safe working condition. Otherwise, the owner of the dwelling or dwelling unit shall install a heating system or heating appliances that meet the requirements of subsection (G)(1) of this section and shall maintain the heating system or heating appliances in a good and safe working condition.
  3. Portable kerosene heaters are not acceptable as a permanent source of heat as required by subsection (G)(1) of this section but may be used as a supplementary source in single family dwellings and duplex units. An owner who has complied with subsection

(G)(1) shall not be held in violation of this section where an occupant of a dwelling or dwelling unit uses a kerosene heater as a primary source of heat.

**Section 7. Powers and Duties of the Code Enforcement Official**

- A. Powers. The CEO is authorized to exercise such powers as may be necessary or convenient to carry out and effectuate the purpose and provisions of this article, including but not limited to the following:
1. To investigate the habitation conditions in all dwellings, dwelling units, and nonresidential structures in the Village in order to determine which structures or portions thereof are unfit for human habitation; and
  2. To administer oaths and affirmations, examine witnesses and receive evidence; and
  3. To enter upon premises for the purpose of making examinations and inspections; and
  4. To appoint and fix the duties of such other officers, agents, and employees as he or she deems necessary to carry out the purposes of this article; and
  5. To delegate any of his or her functions and powers under this article to other officers and other agents.
- B. Duties. It shall be the duty of the CEO:
1. To investigate the conditions of all dwellings, dwelling units, and nonresidential structures located in the Village, in order to determine which of the same are unfit for human habitation;
  2. To keep a record of the results of inspections made under this article and an inventory of those dwellings, dwelling units, and nonresidential structures that do not meet the minimum standards of fitness herein prescribed; and
  3. To perform such other duties as may be herein prescribed.

**Section 8. Enforcement**

- A. Preliminary investigation; notice, hearing.
1. Whenever a petition is filed with the CEO by a public authority or by at least five (5) residents of the Village charging that any dwelling, dwelling unit, or nonresidential structure is unfit for human habitation, or whenever it appears to the CEO, upon inspection, that any such place is unfit for human habitation he or she shall, if his or her preliminary investigation disclosed a basis for such charges, issue and cause to be served upon the owner of and parties in interest in such dwelling, dwelling unit, or nonresidential

structure a complaint stating the alleged violations of this article and containing a notice that a hearing will be held before the CEO at a place and time, not less than ten (10) nor more than thirty (30) days after the serving of such complaint.

2. The owner or any party in interest shall have the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony during the hearing.
  3. If an investigation was initiated in response to a petition filed by Village residents, notice of the hearing shall also be given to at least one of the persons signing a petition.
  4. Any person desiring to do so may attend such hearing and give evidence relevant to the matter being heard.
  5. The hearing shall be quasi-judicial in nature, but the rules of evidence used in courts shall not apply to hearings before the CEO.
- B. Findings of facts; issuance of order.
1. Based upon the evidence presented at the hearing, the CEO shall issue a written order that includes findings of fact and a determination of whether the structure, or portion of a structure, at issue is unfit for human habitation.
  2. If the CEO determines that the structure, or portion thereof, is unfit for human habitation, he or she shall issue an order requiring one of the following:
    - a. Deteriorated condition. If the repair, alteration or improvement of such dwelling, dwelling unit, or nonresidential structure, or portion thereof, can be made at a cost not to exceed fifty percent (50%) of its then current value of the structure, the order shall declare the structure, or portion thereof, to be deteriorated and require the owner, within the time specified in the order, to repair, alter or improve such structure, or portion thereof, to render it fit for human habitation. The order may require that the property be vacated and closed only if continued occupancy during the time allowed for repair will present a significant threat of bodily harm, taking into account the nature of the necessary repairs, alterations, or improvements; the current state of the property; and any additional risks due to the presence and capacity of minors under the age of eighteen (18) or occupants with physical or mental disabilities.
    - b. Dilapidated condition. If the repair, alteration or improvement of such housing cannot be made at a cost not to exceed fifty percent (50%) of its then current value of the housing, the order declare the structure, or portion thereof, to be

dilapidated, and shall require the owner, within the time specified in the order to repair, alter or improve such structure, or portion thereof, to render it fit for human habitation or to demolish and remove such structure, or portion thereof.

3. Notice to affordable housing organizations. Whenever a determination is made that a dwelling or dwelling unit must be vacated and closed, or removed or demolished, notice of the order shall be given by first-class mail to any organization involved in providing or restoring dwellings for affordable housing that has filed a written request for such notices. A minimum period of forty-five (45) days from the mailing of such notice shall be given before removal or demolition by action of the CEO, to allow the opportunity for any organization to negotiate with the owner to make repairs, lease, or purchase the property for the purpose of providing affordable housing. The CEO shall certify the mailing of the notices, and the certification shall be conclusive in the absence of fraud. Only an organization that has filed a written request for such notices may raise the issue of failure to mail such notices, and the sole remedy shall be an order requiring the public officer to wait forty-five (45) days before causing removal or demolition.

C. Failure to comply with order.

1. If the owner fails to comply with an order to repair, alter or improve or to vacate and close the dwelling, dwelling unit, or nonresidential structure, or portion thereof, the Council may, but is not required, to adopt an ordinance ordering the CEO to effectuate the purpose of this article with respect to the particular dwelling, dwelling unit, or nonresidential structure, or portion thereof, at issue. No notice or public hearing shall be required to adopt this ordinance. This ordinance shall describe the property at issue, and the ordinance shall be recorded in the office of the Moore County Register of Deeds and shall be indexed in the name of the property owner in the grantor index.
2. If the Council adopts the ordinance described in subsection (C)(1), the CEO shall cause such structure, or portion thereof, to be repaired, altered or improved, vacated and closed, and/or demolished. As part of this process, the CEO may cause to be posted on the main entrance of any dwelling, dwelling unit, or nonresidential structure, or portion thereof, a placard with the following words: "This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful." Occupation of a dwelling or dwelling unit so posted

shall constitute a Class 1 misdemeanor. Occupation of a nonresidential structure, or portion thereof, so posted shall constitute a Class 3 misdemeanor.

3. No ordinance shall be adopted to require demolition of a structure, or portion thereof, until the owner has first been given a reasonable opportunity to bring it into conformity with the minimum standards established by this article. The time to bring the structure, or portion thereof, into conformity with this article shall be specified in the ordinance.
4. Abandonment of intent to repair.

Dwellings and dwelling units.

- a. If the Council has adopted an ordinance under subsection (C)(1) or if the CEO has issued an order requiring a dwelling or dwelling unit to be repaired or vacated and closed, and if the dwelling has been vacated and closed for a period of one (1) year pursuant to the ordinance or order, the Council may, but is not required, to adopt an ordinance setting forth the following:
  - i. Deteriorated condition. If it is determined that the repair of the dwelling or dwelling unit to render it fit for human habitation can be made at a cost not exceeding fifty percent (50%) of the then current value of the dwelling, the ordinance shall require that the owner either repair or demolish and remove the dwelling or dwelling unit within ninety (90) days; or
  - ii. Dilapidated condition. If it is determined that the repair of the dwelling or dwelling unit to render it fit for human habitation cannot be made at a cost not exceeding fifty percent (50%) of the then current value of the dwelling, the ordinance shall require the owner to demolish and remove the dwelling within ninety (90) days.
- b. The Council may adopt the ordinance described in this subsection only after notice to the owner and other parties in interest and a public hearing and after it makes the following findings of fact:
  - i. The owner has abandoned the intent and purpose to repair, alter or improve the dwelling or dwelling unit in order to render it fit for human habitation; and

- ii. The continuation of the dwelling or dwelling unit in its vacated and closed status would be inimical to the health, safety, morals and welfare of the Village in that the dwelling would continue to deteriorate, would create a fire and safety hazard, would be a threat to children and vagrants, would attract persons intent on criminal activities, would cause or contribute to blight and the deterioration of property values in the area, and/or would render unavailable property and a dwelling or dwelling unit which might otherwise have been made available to ease the persistent shortage of decent and affordable housing in this State.
- c. This ordinance shall be recorded in the Moore County Register of Deeds and shall be indexed in the name of the property owner in the grantor index.
- d. If the owner fails to comply with this ordinance, the CEO effectuate the purpose of the ordinance.

Nonresidential structures.

- a. If the Council has adopted an ordinance under subsection (C)(1) or if the CEO has issued an order requiring a nonresidential structure to be repaired or vacated and closed, and if the dwelling has been vacated and closed for a period of two (2) years year pursuant to the ordinance or order, the Council may, but is not required, to adopt an ordinance setting forth the following:
  - i. Deteriorated condition. If the cost to repair the nonresidential structure, or portion thereof, to bring it into compliance with the minimum standards is less than or equal to fifty percent (50%) of its then current value, the ordinance shall require that the owner either repair or demolish and remove the building or structure within ninety (90) days; or
  - ii. Dilapidated condition. If the cost to repair the nonresidential structure, or portion thereof, to bring it into compliance with the minimum standards exceeds fifty percent (50%) of its then current value, the ordinance shall require the owner to demolish and remove the building or structure within ninety (90) days.

- b. The Council may adopt the ordinance described in this subsection only after notice to the owner and other parties in interest and a public hearing and after it makes the following findings of fact:
    - i. The owner has abandoned the intent and purpose to repair, alter, or improve the structure, or portion thereof; and
    - ii. The continuation of the structure, or portion thereof, in its vacated and closed status would be inimical to the health, safety, and welfare of the Village municipality in that it would continue to deteriorate, would create a fire or safety hazard, would be a threat to children and vagrants, would attract persons intent on criminal activities, and/or would cause or contribute to blight and the deterioration of property values in the area.
  - c. The ordinance shall be recorded in the office of Moore County Register of Deeds and shall be indexed in the name of the property owner in the grantor index.
  - d. If the owner fails to comply with the ordinance, the public officer shall effectuate the purpose of the ordinance.
- D. Costs of lien on premises.
- 1. Upon completion of all work directed to be done by ordinance adopted pursuant to this article, the CEO shall mail by first class and certified mail a bill for all costs associated with the work to the owner and other persons in interest. If the costs are not paid in full within thirty (30) days from the date the bill is mailed, the Village may file a lien as provided for in this subsection.
  - 2. The amount of the cost of repairs, alterations or improvements, or vacating and closing, or removal or demolition by the CEO shall be a lien against the real property upon which the cost was incurred, which lien shall be filed, have the same priority, and be collected as the lien for special assessment provided in G.S. § 160A, Article 10.
  - 3. If the real property upon which the cost was incurred is located within the corporate limits of the Village, then the amount of the cost is also a lien on any other real property of the owner located within the Village corporate limits or within the ETJ, except for the owner's primary residence. The additional lien provided in this subdivision is inferior to all prior liens and shall be collected as a money judgment.
  - 4. If the dwelling, dwelling unit, or nonresidential structure, or portion thereof, is removed or demolished, the CEO shall sell the materials

remaining from the structure, and any personal property, fixtures or appurtenances found in or attached to the structure. The CEO shall credit the proceeds of the sale against the cost of the removal or demolition, and any balance remaining shall be deposited in the Moore County Superior Court, shall be secured in a manner directed by the court, and shall be disbursed by the court to the persons found to be entitled thereto by final order or decree of the court.

**Section 9. Alternative Remedies**

- A. Neither this article nor any of its provisions shall be construed to impair or limit in any way the power of the Village to define and declare nuisances and to cause their abatement by summary action or otherwise, and the enforcement of any remedy provided herein shall not prevent the enforcement of any other remedies provided herein or in other ordinances or laws.
- B. In addition to the remedies provided for by this article, the CEO may use any such other remedies as provided for by this code, including but not limited to the levy of civil penalties in accordance with Chapter J.

**Section 10. Removal of Occupant**

- A. If any occupant fails to comply with an order to vacate a dwelling, dwelling unit, or nonresidential structure, or portion thereof, the CEO and/or the Village Attorney, upon authorization by the Council, may file a civil action in the name of the Village to remove such occupant. The action to vacate the dwelling shall be in the nature of summary ejectment and shall be commenced by filing a complaint naming as parties-defendant any person occupying such dwelling. The Clerk of the Moore County Court shall issue a summons requiring the defendant to appear before a magistrate at a certain time, date and place not to exceed ten (10) days from the issuance of the summons to answer the complaint. The summons and complaint shall be served as provided in G.S. § 42-29. The summons shall be returned according to its tenor, and if on its return it appears to have been duly served, and if at the hearing the CEO produces a certified copy of an ordinance adopted by the Council authorizing the CEO to proceed to vacate the structure, the magistrate shall enter judgment ordering that the premises be vacated and that all persons be removed.
- B. The judgment ordering that the dwelling be vacated shall be enforced in the same manner as the judgment for summary ejectment entered under G.S. § 42-30. An appeal from any judgment entered hereunder by the magistrate may be taken as provided in G.S. § 7A-228, and the execution of such judgment may be stayed as provided in G.S. § 7A-227.

- C. Notice to tenants. An action to remove an occupant of a structure who is a tenant of the owner may not be in the nature of a summary ejectment proceeding pursuant to this paragraph unless such occupant was served with notice at least thirty (30) days before the filing of the summary ejectment proceeding that the Council has ordered the CEO to proceed to exercise his or her duties to vacate and close or remove and demolish the structure.

### **Section 11. Right to Enter the Premises**

The CEO shall have the right to enter, at any reasonable time, any premises for the purpose of making the investigations required by this article. The CEO shall have the right, on his or her own authority, to apply for and receive administrative search warrants pursuant to G.S. § 15-27.2 in order to carry out an investigation into a violation of this article. Absent an administrative search warrant, the CEO may enter the premises only with the permission of the owner, the owner's agent, a tenant, or other person legally in possession of the premises.

### **Section 12. Service of Complaints and Orders**

- A. Complaints or orders issued by the CEO shall be served upon the owner and parties in interest either personally or by registered or certified mail. When service is made by registered or certified mail, a copy of the complaint or order may also be sent by regular mail. Service shall be deemed sufficient if the registered or certified mail is unclaimed or refused, but the regular mail is not returned by the post office within ten (10) days after the mailing. If regular mail is used, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected.
- B. If the identities of any owners or the whereabouts of persons are unknown and cannot be ascertained by the CEO in the exercise of reasonable diligence, or, if the owners are known but have refused to accept service by registered or certified mail, and the CEO makes an affidavit to that effect, then the serving of the complaint or order upon the owners or other persons may be made by publication in a newspaper having general circulation in the Village at least once no later than the time at which personal service would be required under the provisions of this Article. When service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises thereby affected.

### **Section 13. Appeals**

- A. An appeal from any decision or order of the CEO may be taken to the PZ Board. An appeal may be taken by any person aggrieved by the decision or order or by any officer, board or commission of the Village.

- B. An appeal may be made by filing a written notice of appeal with the CEO or the Clerk within ten (10) days from the rendering of the decision or service of the order. The notice of appeal shall specify the grounds upon which the appeal is based.
- C. Upon the filing of a notice of appeal, the CEO shall forthwith transmit to the PZ Board all the papers constituting the record upon which the decision appealed from was made.
- D. When an appeal is from a decision of the CEO refusing to allow the person aggrieved thereby to do any act, his or her decision shall remain in force until modified or reversed. When any appeal is from a decision of the CEO requiring the person aggrieved to do any act, the appeal shall have the effect of suspending the requirement until the hearing by the PZ Board, unless the CEO certifies to the PZ Board, after the notice of appeal is filed with the Clerk, that because of facts stated in the certificate (a copy of which shall be furnished the appellant), a suspension of his or her requirement would cause imminent peril to life or property. In that case the requirement shall not be suspended except by a restraining order, which may be granted for due cause shown upon not less than one (1) day's written notice to the CEO, by the PZ Board, or by a court of record upon petition made pursuant to subsection (G) below.
- E. The PZ Board shall fix a reasonable time for hearing the appeal, shall give due notice to the parties, and shall render its decision within a reasonable time. Any party may appear in person or by agent or attorney. The PZ Board may reverse or affirm, wholly or partly, or may modify the decision or order appealed from, and may make any decision and order that in its opinion ought to be made in the matter, and to that end it shall have all the powers of the CEO. But the concurring vote of four (4) members of the PZ Board shall be necessary to reverse or modify any decision or order of the CEO.
- F. The PZ Board shall have power also in passing upon appeals, when practical difficulties or unnecessary hardships would result from carrying out the strict letter of the ordinance, to adapt the application of the ordinance to the necessities of the case to the end that the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done.
- G. Every decision of the PZ Board shall be subject to review by proceedings in the nature of certiorari instituted within fifteen (15) days of the decision of the board, but not otherwise. Any person aggrieved by an order issued by the CEO or a decision rendered by the PZ Board may petition the superior court for an injunction restraining the CEO from carrying out the

- order or decision and the court may, upon such petition, issue a temporary injunction restraining the CEO pending a final disposition of the cause. The petition shall be filed within thirty (30) days after issuance of the order or rendering of the decision. Hearings shall be had by the court on a petition within twenty (20) days and shall be given preference over other matters on the court's calendar. The court shall hear and determine the issues raised and shall enter such final order or decree as law and justice may require. It shall not be necessary to file bond in any amount before obtaining a temporary injunction under this subsection.
- H. If any dwelling, dwelling unit, or nonresidential structure, or part thereof, is erected, constructed, altered, repaired, converted, maintained, or used in violation of this article or of any ordinance or code adopted under authority of this article or any valid order or decision of the CEO or the PZ Board made pursuant to any ordinance or code adopted under this article, the CEO or PZ Board may institute any appropriate action or proceedings to prevent the unlawful erection, construction, reconstruction, alteration or use, to restrain, correct or abate the violation, to prevent the occupancy of the structure, or part thereof, or to prevent any illegal act, conduct or use in or about the premises of the structure.

#### **Section 14. Unlawful to Hinder Work**

It shall be unlawful for any person to hinder, obstruct, or delay the any Village official, employee, or agent, including but not limited to the CEO, in the lawful discharge of his or her duties pursuant to this Article.

#### **Section 15. Conflict of Laws**

- A. In any case where this article conflicts with established State or Federal law, the established State or Federal law will prevail.
- B. Conflict with other provisions. In the event any provision, standard or requirement of this article is found to be in conflict with any other applicable law, code or ordinance pertaining to housing, the provision which establishes the higher standard or more stringent requirement for the promotion and protection of the health and safety of the residents of the Village shall prevail.

#### **Section 16. Severability**

In the event any provision or part of this article is found to be invalid or unenforceable, only that particular provision or part so found, and not the entire article, will be inoperative.

## **Article IV – Solid Waste Collection**

(Amended 7/1/20)

### **Section 1. Definitions**

**Construction Waste** - Any and all new waste resulting from construction, remodeling, repair or demolition operations on pavements, buildings and other structures.

**Hazardous Waste** - Waste which because of its quantity, concentration or physical, chemical or infectious characteristics may pose a substantial present or potential hazard to human health or the environment.

**Household Waste** - All solid waste resulting from handling, preparation, cooking and maintenance of the household and packaging, except aluminum cans.

**Recycled Items** - Items on the acceptable list. (List of acceptable items is available at Village Hall)

**Yard Waste** - Solid waste of a vegetative matter produced by gardening, yard maintenance, and tree and brush pruning.

### **Section 2. Waste Required to be Promptly Removed**

No waste that has become decayed or that shall otherwise be a menace to health or cleanliness shall be allowed to remain in any building or on any premises or property longer than is reasonably necessary to deposit the same in a trash container(s) and set it out for pick-up by the waste collection contractor.

### **Section 3. Trash Cans**

The owner of every residential or non-residential structure where waste exists, shall provide trash can(s) in which the occupant shall deposit all waste. Such cans shall be provided with a tight-fitting cover made of the same material as the can. All trash cans shall be water tight. Such cans shall not to exceed holding capacity of 45 gallons.

All solid waste trash cans must be placed out for collection by 7:00 a.m. on the day of collection. Trash cans may not be placed in view of the street prior to 3:00 p.m. the day before scheduled pick-up and must be removed from view the day of pick-up.

When not placed outside for collection, trash cans shall be stored inside, or screened from view from the street. Cans may be stored at or near the side or rear entrance of the residence, providing the entrance does not abut a street.

### **Section 4. Waste Collection**

Household waste – All household waste shall be placed in plastic bags tied closed and shall be placed near or adjacent to the front of the garage or house, in a manner clearly visible from the street, or curbside. No loose un-bagged garbage will be removed from the cans by the contractor.

Recycling – All accepted recyclable items shall be loose and co-mingled and shall be placed near or adjacent to the front of the garage or house, in a manner clearly visible from the street, or curbside.

Construction Waste – Disposal of construction waste from any premises shall be the responsibility of the homeowner/occupant and/or construction contractor.

Yard Waste - Yard waste shall either be placed in trash cans or cut into four-foot lengths and tied in bundles. Tree trunks, limbs and branches shall not exceed four (4) inches in diameter AND four (4) feet in length. Yard waste placed in cans may not exceed the top of the can. On the day of pick-up, a maximum of seven (7) cans and seven (7) bundles will be picked up from any residence. All yard waste shall be placed curb side.

Hazardous Waste – This waste will not be picked up by the waste collection contractor.

### **Section 5. Deposit of Waste in Public Places and on Private Property**

No person shall throw, place or deposit any waste in any street, alley, public place or private property within the Village limits, except in trash cans or trash vehicles as provided for in this Ordinance.

### **Section 6. Enforcement**

The Manager, or his or her designee, will decide solid waste collection disputes based on compliance with the contract and this ordinance. Solid waste which does not comply with conditions outlined above will not be picked up. When the contractor refuses to pick up solid waste due to non-compliance with conditions outlined above, a note will be left for the resident explaining the reason for the refused pick-up.

Residents who have a complaint may call Village Hall. If solid waste has been set out before 7:00 a.m. and the contractor missed the pick-up, and the resident calls Village Hall before the contractor finishes the route, the contractor will be called and asked to go back and pick up that resident's solid waste. If such waste has been set out before 7:00 a.m. and the contractor missed the pick-up, and the resident calls Village Hall after the contractor has finished the route and left the Village, that resident's solid waste will be picked up the next business day.

## **Article V – Water Shortage Conservation Measures**

### **Section 1. Purpose and Scope**

- A. The Village does not operate a public water supply system. Utilities, Inc., a privately owned utility company operates the public water supply system that serves most of the Village, using water supplied by the Town of Southern Pines (TSP), and a few areas are served directly by Southern Pines. The purpose of this policy is to provide for the implementation within the Village of water conservation measures comparable to those imposed within the TSP under circumstances where water shortage conditions warrant the imposition of such measures within that town.
- B. This policy shall be applicable within the corporate limits of the Village and shall apply only to the use of water supplied by a public water supply system within the Village.

### **Section 2. Word Interpretation and Definitions**

The following terms and phrases shall have the meanings hereinafter designated:

- A. Drip irrigation. The application of irrigation water through drip emitter devices at low pressure, volume, and velocity near or at ground level in order to minimize runoff and evaporative losses. Drip irrigation emitters are typically used for irrigating non-turf vegetation and release water in the range of 0.04 to 0.40 gallons per minute.
- B. Water waste. The non-beneficial use of water under the following circumstances:
1. Landscape water applied in such a manner, rate and/or quantity that it overflows the landscaped area being watered and runs onto adjacent property or public right-of-way; or landscape water applied during periods of rainfall or when soil moisture is already adequate.
  2. The use of water for washing vehicles, equipment, or hard surfaces, such as parking lots, aprons, pads, and driveways in such quantities that substantial water flows onto adjacent property or the public right-of-way.
  3. Water applied in sufficient quantity to cause ponding on impervious surfaces.
  4. Water lost through plumbing leaks that can be readily identified and corrected.

### **Section 3. Stages of Conservation Measures**

- A. This ordinance provides for six (6) stages of water conservation measures, with increasingly more restrictive measures to become applicable in each successive stage. The six (6) stages are as follows:
1. Stage 1 – Alert
  2. Stage 2 – Warning
  3. Stage 3 – Danger
  4. Stage 4 – Emergency
  5. Stage 5 – Crisis
  6. Stage 6 – Rationing
- B. Each stage shall become effective within the Village when, after the TSP Manager notifies the Manager in writing that a particular stage of conservation measures has been placed into effect within TSP, the Manager declares that the comparable stage of conservation measures set forth in this article is being implemented within the Village as of a specified date and time. The TSP Manager's decision to place into effect a particular stage of conservation measures will be based upon the level of water supply available in Drowning Creek and the amount of daily water demand as a percentage of system capacity
- C. Notice of the imposition of a particular stage of conservation measures shall be given by public press announcements, web page advisories and/or other means designed and intended to disseminate notice as broadly as possible.
- D. The restrictions of a particular stage of conservation measures shall remain in place until the Manager declares that the circumstances warranting the imposition of those measures no longer exist. Generally, the Manager shall make this determination upon receiving notification from the TSP Manager that the restrictions applicable to the comparable stage in that town have been cancelled. Notice of the cancellation of the restrictive measures applicable to a particular stage shall be given by the Manager as provided in subsection (C) of this section.
- E. As each successively more restrictive stage of conservation measures is imposed, the restrictions applicable to the prior stage shall remain in effect except to the extent that the successive stage imposes more restrictive measures covering the same subject matter.

**Section 4. Conservation Measures**

- A. Stage 1 – Alert. When Stage 1 conservation measures are declared to be in effect, all water customers are encouraged to employ the following voluntary conservation measures:

1. Seek to reduce water usage by twenty percent (20%) in comparison with the same billing period for the prior year.
  2. Irrigation and sprinkling of established lawns, trees, shrubs, flowers or plants should be limited to three (3) days per week. Even numbered addresses may irrigate on even number days and odd number addresses may irrigate on odd numbered days but no more than three (3) days per week.
  3. Do not establish new plantings.
  4. No washing motor vehicles, except at commercial car washes.
  5. Do not wash down exterior paved surfaces such as streets, driveways, service station aprons, parking lots, sidewalks, patios, etc.
  6. Do not fill swimming pools. Only refill pools or water features due to evaporation.
  7. Use disposable and biodegradable dishes as much as possible.
  8. Limit the use of garbage disposals.
  9. Limit using clothes washers and dishwashers and when used, operate fully loaded.
  10. Take showers instead of using the bathtub, and limit showers to no more than five (5) minutes.
  11. Where feasible, reduce pressure on water supply line, if it will not affect operations of equipment, public safety, or health devices.
  12. Reduce pressure at plumbing fixtures and install flow restricting devices within public buildings, institutions, dormitories and similar facilities.
  13. All phases of construction related activities should conserve water and locate additional sources of water.
  14. Check for and repair leaks within homes and businesses.
  15. Install a water flow restriction device in showerheads and other water saving devices such as early closing flapper valves in toilets.
  16. Engage in water conservation practices relating to lawns and landscaping such as removing weeds from gardens, mulching around plants, avoiding over-fertilization, planting native and drought tolerant grasses, ground covers, and shrubs, raising mower blades to a height of 3-inches, and catching and using rainwater for outside uses.
- B. Stage 2 – Warning. When Stage 2 conservation measures are declared to be in effect, all water customers shall seek to reduce water usage by at least twenty-five percent (25%) in comparison with the same billing period in the prior year. In addition, it shall be unlawful to:
1. Water or sprinkle any lawn, grass, shrubbery, trees, flowers or vegetable gardens, except by hand-held hose, container, or drip irrigation system; provided that newly established plantings may be

watered by hand-held hose, container, or drip irrigation system; or by automatic sprinkling at the minimum necessary to keep plants alive, but not more than every fourth (4<sup>th</sup>) day. Even numbered addresses may irrigate on even numbered days and odd numbered addresses may irrigate on odd numbered days but no more than once every fourth (4<sup>th</sup>) day. Notwithstanding the foregoing, persons regularly engaged in the sale of plants shall be permitted to water, by any method at any time, for irrigation of their commercial stock in trade, and licensed landscape contractors may continue to water plantings that are under written warranty by any method at any time.

2. Water parks and other recreational areas except by hand-held hose, container, or drip irrigation.
  3. Wash automobiles, trucks, trailers, boats, airplanes or any other type of mobile equipment; except parts of vehicles may be washed when required by federal, State or local laws or for safety reasons; provided that any commercial or business operated car wash facility shall be permitted to use water for such purposes.
  4. Wash down outside areas such as streets, driveways, service station aprons, parking lots, office building exteriors, or newly constructed homes or apartments, sidewalks, or patios or to use water for similar purposes; provided that hand washing of exterior surfaces of a building for preparing them for painting shall be permitted; provided further that licensed commercial pressure washers shall be permitted to operate.
  5. Introduce water into any ornamental fountain or pool not containing plants or fish.
  6. Fill or replenish any swimming or wading pool serving less than twenty-five (25) dwellings or families except to maintain the minimum level required to operate chemical feed equipment.
  7. Serve drinking water in restaurants, cafeterias, or other food establishments, except as specifically requested by patrons.
  8. Use water from any public or private fire hydrant for any purpose other than by the Fire Rescue Department (FRD) for fire suppression, testing and drills, Public Works Department need or other public emergency.
  9. Use water for dust control or compaction.
  10. Intentionally waste water.
- C. Stage 3 – Danger. When Stage 3 conservation measures are declared to be in effect, all water customers shall seek to reduce water usage by at least thirty percent (30%) in comparison with the same billing period in the prior year. In addition, it shall be unlawful to:

1. Water or sprinkle any lawn, grass, shrubbery, trees, or flowers except from a watering can or other container exceeding three (3) gallons in capacity with used water from inside a structure except that newly planted shrubbery, trees or flowers may be watered by hand-held hose; provided that persons regularly engaged in the sale of plants shall be permitted to use water for irrigation of their commercial stock in trade, and licensed landscape contractors may continue to water plantings that are under written warranty by hand-held hose, container or drip irrigation.
  2. Water any vegetable garden except by hand-held hose, container or drip irrigation.
  3. Fill or refill any swimming or wading pool or water any tennis court.
  4. Use water for any other purpose, whether commercial, public, or otherwise, that is not necessary for health and safety.
  5. Make any water service connections to a public water supply line, except to connect buildings or lots for which a valid building permit has been issued prior to the implementation of Stage 3 Conservation Measures, or to connect public facilities such as schools, hospitals, police or fire stations, or other governmental buildings or the facilities of public service companies.
- D. Stage 4 – Emergency. When Stage 4 conservation measures are declared to be in effect, all water customers shall seek to reduce water usage by at least thirty-five percent (35%) in comparison with the same billing period in the prior year. In addition, it shall be unlawful to:
1. Use water outside a structure for any use other than emergencies involving fire or as needed by the public water supply system operator to maintain the system, except that flowers, plants and shrubs may be watered from watering cans or other container not exceeding three (3) gallons in capacity with used wash water from inside a structure.
  2. Operate an evaporative air conditioning unit which recycles water except during the operating hours of the business.
  3. Wash any vehicle for any purpose, whether inside or outside a structure, except that commercial and business operated car washes may do so provided that their hours of daylight operation shall be reduced by fifty percent (50%), and parts of vehicles may be washed when required by federal, State or local laws for health or safety reasons.
- E. Stage 5 – Crisis. When Stage 5 conservation measures are declared to be in effect, all water customers shall seek to reduce water usage by at least forty percent (40%) in comparison with the same billing period in the prior year. In addition, it shall be unlawful to:

1. Serve food or beverages in restaurants, clubs, and other eating places to customers using anything other than disposable plates, cups, saucers, eating utensils, napkins, and tablecloths, etc.
  2. Wash any vehicle for any purpose, whether inside or outside a structure, except those parts of vehicles may be washed when required by federal, State or local laws for health or safety.
  3. Operate, start-up or maintain a water-cooled air conditioning unit or equipment which does not recycle its cooling water, unless required for health and safety reasons, and approved by the Manager.
  4. Use water outside a structure for any use other than emergencies involving the FRD or as needed by the public water system operator to maintain the public water system.
- F. Stage 6 – Rationing. When Stage 6 conservation measures are declared to be in effect:
1. All residential water customers shall reduce consumption by fifty percent (50%) of their usual usage during the most recent twelve (12) month period in which no water restriction was in effect.
  2. All non-residential customers shall reduce consumption by eighty percent (80%) of their usual usage during the most recent twelve (12) month period in which no water restriction was in effect.
  3. All water customers are responsible for meeting the established water rationing limits in whatever manner possible.
  4. If the water rationing limits established cannot be obtained without threatening health or safety, or if there has been a significant change in circumstances, the customer may apply to the Village Manager for a variance to these limits. A variance may also be granted if mandatory water rationing will be cause for a closure of a business on a permanent basis and the business can demonstrate that it can still meet Stage 5 conservation measures while in operation

### **Section 5. Compliance**

- A. Compliance with the provisions of this policy shall be enforced by the Police Department, personnel of the Public Works Department and other such Village employees designated by the Manager.
- B. Hospitals, nursing homes and health care facilities shall comply with all restrictions imposed to the extent compliance will not endanger the health of the patients or residents of the institution. These facilities shall survey their water usage patterns and requirements and implement such additional conservation measures to further reduce water usage.

**Section 6. Enforcement**

This Article shall be enforced in accordance with the provisions of Chapter J.

**Section 7. Appeals**

Appeals from the Manager's decision on any variance request shall be to the Council.