

CHAPTER 5

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Article I

HOUSING DISCRIMINATION PROHIBITED

Section 5-1 Definitions

Unless otherwise specifically provided, or unless otherwise clearly indicated by the context, the words and phrases defined in this section shall have the meaning indicated when used in this article.

(1) *Dwelling*. Any building, structure or portion thereof that is occupied or designed or intended for occupancy as a residence by one or more families, and any vacant land that is offered for sale or lease for the construction thereon of any such building or structure.

(2) *To Rent*. To lease, to sublease, to let and otherwise to grant for a consideration the right to occupy premises not owned by the occupant.

(3) *Discrimination*. Any direct or indirect act or practice of exclusion, distinction, restriction, segregation, limitation, refusal, denial or any other act or practice of differentiation or preference.

(4) *Housing Opportunity*. Any opportunity to purchase, rent, or otherwise acquire any real property or any interest in real property for residential purposes.

Section 5-2 Housing Discrimination Prohibited

No person may engage in any act, practice, activity or procedure that is intended to or that does result in discrimination based on race, color, religion, sex, or national origin in connection with the provision of housing opportunities. This provision specifically includes, but is not limited to, real estate brokers, agents, and salespersons.

Section 5-3 Specific Discriminatory Practices

Without limiting in any way the generality of Section 5-2, it shall be specifically unlawful for any person, either on that person's own behalf or as agent for another to:

(1) Refuse to sell or rent or otherwise make unavailable or deny a dwelling to any person because of race, color, religion, sex or national origin.

(2) Discriminate against any person in the terms, conditions or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, sex or national origin.

(3) Make, print or publish, or cause to be made, printed or published any notice, statement or advertisement, with respect to the sale or rental of a dwelling that indicates

any preference, limitation or discrimination based on race, color, religion, sex or national origin, or an intention to make any such preference, limitation or discrimination.

(4) Represent to any person because of race, color, religion, sex or national origin that any dwelling is not available for inspection, sale or rental when such dwelling is in fact so available.

(5) Induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex or national origin.

Section 5-4 Housing Discrimination by Banks

Without limiting the generality of Section 5-2, it shall be specifically unlawful for any bank, building and loan association, insurance company or similar entity whose business includes the making of commercial real estate loans to deny a loan or other financial assistance to any person who applies for such a loan or assistance to purchase, construct, improve, or maintain a dwelling, or otherwise to discriminate against such person in the fixing of the amount, interest rate, duration, or other terms or conditions of such loan or assistance, because of:

(1) The race, color, religion, sex or national origin of such person or any person associated with them in connection with such loan or other financial assistance; or

(2) The race, color, religion, sex or national origin of the present or prospective owners, lessees, tenants, or occupants of the dwelling or dwellings in relation to which such loan or other financial assistance is to be made or given.

Section 5-5 Exemptions

The provisions of this article do not apply to:

(1) The rental of rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one such living quarter at the owner's residence.

(2) A religious organization, association or society, or any nonprofit institution operated or controlled by or in conjunction with a religious organization, association or society, limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or giving preference to such persons unless membership in such religion is restricted on account of race, color, sex or national origin.

(3) A private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than a

commercial purpose, limiting the rental or occupancy of such lodgings to its members or private preference to its members.

Sections 5-6 through 5-10 Reserved

Article II

MISCELLANEOUS OFFENSES

Section 5-11 Noise Generally

No person may authorize or cause the emission from any property or source under their control any noise that is both:

- (1) Sufficiently loud to frighten or pose a danger to the health of or seriously disturb any person who:
 - a. If the noise emanates from a source located on private premises, is located on other premises (including other dwelling units or rented premises located on the same tract of land), or
 - b. If the noise emanates from a street or other public property, is located on private property or the street or other public property, and
- (2) Louder, or of greater duration, or otherwise more disturbing than is reasonably necessary for the performance of some lawful public or private function, enterprise, operation, or activity.

Section 5-12 Particular Noise

The following are declared to be illustrations of noises prohibited under the foregoing section, and are hereby declared to be unlawful, but this list shall not be exhaustive:

- (1) The playing of any radio, television, tape recorder, phonograph, or similar electronic device or any musical instrument so as to disturb the comfort, quiet or repose of persons in any place of residence or so as to interfere substantially with the operations of any church, school, theater, library or other similar place of assembly.
- (2) The use of any drum, loudspeaker, or other amplification instrument or device for the purpose of attracting attention by the creation of noise to any performance, show, sale, display, advertisement of merchandise, or other commercial venture.
- (3) Any party or assembly of persons in a dwelling unit or on residential premises producing loud and raucous noise after 11:00 p.m. that tend to disturb the comfort, quiet, or repose of persons in other dwelling units or on other residential premise. The person in possession of the premises where such a part or assembly of persons takes place shall be deemed responsible for the emission of loud and raucous noises under this subdivision.
- (4) The operation or use of any of the following tools, machinery, or equipment, when such operation or use takes place (i) outside of a fully enclosed structure; and (ii) within

300 feet of a residentially occupied structure that is not in the possession of the party responsible for the noise at issue; and (iii) after sunset on any day or before 7:00 a.m. on any day except Sunday and before 12:00 noon on Sunday. However, this prohibition shall not apply when work must take place on an emergency basis for health or safety reasons, or when work is undertaken within a public street right-of-way by (i) a utility pursuant to an encroachment agreement, (ii) the Town, or (iii) the North Carolina Department of Transportation.

- a. Earth moving or clearing power equipment.
- b. Chain saws, brush cutters, wood chippers, or similar power equipment.
- c. Power saws
- d. Power driven hammers or jackhammers.

(5) The barking, howling, whining, crying, crowing, or other noise making of any animal that occurs essentially unabated for a period of at least five minutes on at least three occasions during the hours between 11:00 p.m. and 7:00 a.m.

Section 5-12.1 Motor Vehicle Noises

The following are illustrations of noises, produced in connection with the operation or use of motor vehicles, that are prohibited under Section 5-11 and are hereby declared to be unlawful, but this list shall not be exhaustive:

- (1) The blowing of a horn on any motor vehicle except when the horn is used as a warning device.
- (2) The operation of any motor vehicle without a muffler or with a muffler that is so defective or so designed that the vehicle emits an unusually loud noise.
- (3) The operation of any motor vehicle so as to create unnecessary and unusual noise through the screeching of tires or racing of engines.
- (4) The operation or use of a motor vehicle with amplified sound produced by a radio, tape player, compact disc player or other sound-making device or instrument within the motor vehicle such that the sound is plainly audible at a distance of 100 feet or more from the motor vehicle.

Section 5-13 Discharge of Firearms and Air Rifles

(a) Subject to subsection (b), no person may discharge any pistol, rifle, shotgun, or other gun or any air pistol, slingshot or any like instrument used to eject a pellet or projectile within the Town limits.

(b) Subjection (a) shall not apply to private citizens acting in justifiable defense of persons or property or pursuant to the lawful directions of a police officer nor to police officers acting in the lawful performance of their duties.

(c) No parent of a child or any person who stands in the relationship of a parent to a child may knowingly permit such child to violate subsection (a).

Section 5-14 Operation of Public Enterprise Without Franchise

Except as otherwise provided by law, no person may operate within the Town any public enterprise, as defined in G.S. 160A-311, without first obtaining a franchise from the Town, nor may any person continue to operate such public enterprise after the expiration of such franchise.

Section 5-15 Limitation on Campaign Contributions for Town Offices

(a) No person, political committee, or other entity may contribute to any candidate for the office of Mayor or any candidate for the office of Council Member any money or in-kind contribution in any election (regular or special) in excess of \$250.00.

(b) The definitions in Article 22A of Chapter 163 of the General Statutes apply to the provisions of this section. In addition, as used herein, the word "candidate" also means a political committee authorized by the candidate for that candidate's election.

(c) The provisions of this section do not apply to contributions made by a candidate or a candidate's spouse, domestic partner registered with a government agency, parents, or siblings.

(d) The provisions of this section are authorized and shall be interpreted in accordance With Sections 2-8 and 2-9 of the Town Charter, as established by Chapter 97 of the 2008 Session Laws.

(e) The provisions of this section shall expire 60 days prior to the opening of filing for the 2021 regular Town election, except that such expiration will not make lawful any contribution made before that date that is in violation of this section.

Section 5-16 Public Urination and Defecation Prohibited

Except in designated water closets or toilet facilities, it shall be unlawful for any person to urinate or defecate on any public place, sidewalk, street, alleyway or right-of-way, or in any public building, or on private property. Having the permission of the owner or person in lawful possession shall constitute an affirmative defense to the charge of urinating or defecating on private property.

Section 5-17 Begging or Soliciting Alms by Intimidation

(a) Except when performed in the manner set forth in subsection (b), it shall not be unlawful to beg or solicit alms or contributions.

(b) It shall be unlawful for any person to ask, beg or solicit alms or contributions, or exhibit oneself for the purpose of begging or soliciting alms or contributions with the intent to intimidate another person into giving money or goods.

(c) For purposes of this section, "ask, beg or solicit" shall include, without limitation, the spoken, written or printed word or such other acts as are conducted in furtherance of the purpose of obtaining alms or contributions.

(d) For purposes of this section, "intimidate" shall be defined as conduct which would cause a reasonable person to fear imminent bodily harm and cause such person to do something that the person would not otherwise have done.

Section 5-18 Consumption of Malt Beverages or Unfortified Wine on Public Property and Possession of Open Containers of Malt Beverages or Unfortified Wines on Public Property Prohibited

(a) No person may consume malt beverages or unfortified wines or possess open containers of malt beverages or unfortified wines on any property owned or occupied by the Town, except that this prohibition does not apply to:

(1) Social or other events at the Town Hall, Century Center, or Town Commons that are sponsored by the Town or authorized by the Town pursuant to applicable policies for the reservation and use of such facilities; or

(2) The sampling of malt beverages or unfortified wines at the Town Commons during the regular operating hours of the Farmers' Market, so long as (1) the samples offered do not exceed one ounce, (2) the samples are offered by a market vendor that either produced the malt beverages or wine or grew the grapes that made the wine, (3) the samples are offered in connection with the sale of such malt beverages or wine by the bottle, (4) malt beverages or unfortified wines are not sold by the glass for consumption on site, and (5) the vendor has all appropriate ABC licenses or permits authorizing this activity.

(b) For purposes of this section, the following terms shall have the meaning indicated:

Malt Beverage. Beer, lager, malt liquor, ale, porter, or any other brewed or fermented beverage--containing at least one-half of one percent (0.5%), and not more than six percent (6%), alcohol by volume.

Unfortified Wine. Wine that has an alcoholic content produced only by natural fermentation or by the addition of pure cane, beet, or dextrose sugar, and that has an alcoholic content of not more than seventeen percent (17%) alcohol by volume.

Open Container. A container whose seal has been broken or a container other than the manufacturer's unopened original container.

Property owned or occupied by the Town. This includes all public streets, sidewalks, bikeways, and other public rights-of-way, as well as the Town Hall property, public works facility, all Town parks, and all other properties owned or occupied by the Town of Carrboro.

Section 5-19 Fences Required Around Outdoor Pools

(a) The provisions of Appendix D of Volume 7 of the North Carolina State Building Code, entitled "Swimming Pools, Spas and Hot Tubs," as the same exist on July 1, 1997 or are thereafter amended, are incorporated herein by reference and hereby adopted.

(b) The provisions referenced in subsection (a) shall apply to all outdoor swimming pools, spas, and hot tubs (as those terms are defined in the referenced regulations) located within the corporate limits of the Town, regardless of whether such pools, spas, and hot tubs are located on single-family, two-family, multi-family, or non-residential property and regardless of whether the same are existing on or constructed after the effective date of this ordinance.

(c) The building inspector may approve barriers that exist on the effective date of this ordinance to the extent that such barriers substantially comply with the specifications set forth in Appendix D or provide substantially equivalent protection to such specifications.

Section 5-20 Application of Nutrients to Two Acres or More of Land Area

(a) No person may apply nutrients, including fertilizer, bio solids, or compost, to any land area that exceeds two acres in size, or cause, suffer, or permit the application of such nutrients to any land area that exceeds two acres in size under the control of such person, unless:

(1) The person who applies the nutrients has attended and completed nutrient management training as described in subsection (b) of this section or works under the direct supervision of someone who has attended and completed such training;
or

(2) The nutrients are applied in accordance with a nutrient management plan prepared and approved as provided in subsections (c) or (d) of this section.

(b) In order to satisfy the requirements of this section by nutrient management training, a person must complete training provided by either the North Carolina Cooperative Extension Service or the North Carolina Division of Water Quality and obtain a certificate from the training entity to that effect. Training shall be sufficient to provide participants with an understanding of the value and importance of proper management of

nitrogen and phosphorus, and the water quality impacts of poor nutrient management, and the ability to understand and properly carry out a nutrient management plan. Training certificates must be kept at the site of the nutrient application or be produced within 24 hours of a request by the Town.

(c) For pasture and cropland, a nutrient management plan developed to satisfy the requirements of this section shall be approved by the North Carolina Cooperative Extension Service.

(d) For land besides pasture and cropland, including but not necessarily limited to residential, commercial, and recreational turf, a nutrient management plan developed to satisfy the requirements of this section can be approved by the North Carolina Cooperative Extension Service. Alternatively, a nutrient management plan developed to satisfy the requirements of this section can be prepared in accordance with the guidelines set forth in the most current edition of one or more of the following publications as applicable and approved by the Town:

(1) *Organic Lawn Care: A Guide to Lawn Maintenance and Pest Management for North Carolina, Water Quality and Professional Lawn Care, Water Quality and Home Lawn Care, or Carolina Lawns: A Guide to Maintaining Quality Turf in the Landscape* published by the North Carolina Cooperative Extension Service (NCCES publication numbers AG-562, WQWM-155, WQWM-151, and AG-69 respectively).

(2) *Water Quality for Golf Course Superintendents and Professional Turf Managers*, published by the North Carolina Cooperative Extension Service (NCCES publication numbers WQWM-156).

(3) Other publications establishing appropriate guidelines for nutrient application promulgated by universities or governmental agencies.

(e) A nutrient management plan that is based on guidelines contained in the publications referenced in subsection (d)(1)-(d)(3) shall at a minimum document whether or how the following nutrient management plan components are considered to ensure appropriate management practices are employed to minimize the risk of over application and excessive loss of nutrients to surface waters.

(1) Map of application area.

(2) Choice of grasses and fertilizer.

(3) Soil testing: timing, map of where samples are taken, sampling procedures, results.

(4) Coring and aerification.

- (5) Application rates of nitrogen, phosphorus, potassium, and/or iron in pounds per square foot, including adjustments for steeper slopes and areas near drainageways (streams, ditches, swales, and runoff conveyances) and impervious surfaces.
- (6) Timing of application.
- (7) Recycling of grass clippings.
- (8) Type of spreader (gravity or centrifugal).
- (9) Name and contact information of applier.
- (10) Reference document(s) used to develop the plan

Records shall be kept and updated annually to document the actual implementation of these components. Nutrient quantities stored and applied shall be documented via sales receipts or similar records.

(f) Landowners and other individuals applying nutrients to areas less than two acres in size are encouraged to adopt management practices to reduce the risk of surface water impacts and apply nutrients at rates recommended by the North Carolina Cooperative Extension Service.

Section 5-21 Penalties and Remedies

(a) A violation of any of the provisions of this chapter, other than those set forth in Article III, shall constitute a misdemeanor, punishable as provided in G.S. 14-4.

(b) A violation of any of the provisions of this chapter, other than Section 5-15, shall subject the offender to a civil penalty of \$25.00 for the first offense, \$50.00 for the second offense within a 30-day period, and \$100.00 for the third or any additional offense that occurs within any 30-day period. A violation of the provisions of Section 5-15 shall subject the offender to a civil penalty in the amount by which the contribution exceeds \$250.00. If a person fails to pay this penalty within 10 days after being cited for a violation, the Town may seek to recover the penalty by filing a civil action in the nature of debt.

(b1) A violation of the provisions of Article IV of this chapter shall subject the offender to a civil penalty of up to five thousand dollars (\$5,000.00). In determining the amount of the civil penalty assessment, the administrator shall consider the following factors, and the decision levying a civil penalty shall cite those factors deemed applicable:

- (1) The degree and extent of harm to the natural resources of the Town, to the public health, or to private property resulting from the violation;

- (2) The duration and gravity of the violation;
 - (3) The cost to the violator or others of rectifying the damage;
 - (4) The amount of money saved by the violator by noncompliance;
 - (5) Whether the violation was committed willfully or intentionally, negligently, or as the result of an unforeseeable or unavoidable accident;
 - (6) Whether the violator promptly ceased the violation upon notice by the Town and took whatever steps were reasonably possible to limit or correct any damage caused by the violation;
 - (7) The prior record of the violator in complying or failing to comply with the provisions of Article IV of this chapter;
 - (8) The cost to the Town of the enforcement procedures;
 - (9) Whether the civil penalty is levied for a single day's violation or a single event or whether it is levied on a daily basis for a continuing violation, as authorized under subsection (d) below. Civil penalties levied on a daily basis may cumulatively exceed the \$5,000.00 cap set forth in this subsection.
- (c) The Town may seek to enforce this chapter through any appropriate equitable action.
- (d) Each day that a violation continues after the offender has been notified of the violation shall constitute a separate offense.
- (e) The Town may seek to enforce this chapter by using any one or a combination of the foregoing remedies.
- (f) Complaints regarding alleged violations of the provisions of Subsection 5-12(4) (which deal with construction noise) may be filed with the police department or with the Town Manager or the Town Manager's designee (other than a member of the police department). Complaints filed with the Town Manager or the Town Manager's shall be referred to the police department. The police department shall investigate such complaints and take such action as is warranted by the results of that investigation.

Article III

WATER CONSERVATION RESTRICTIONS

Section 5-22 Purpose

The purpose of this article is to:

(1) Reduce the rate of increase in overall water use through year-round water conservation practices that will help maximize the community's existing and planned water supply sources and help reduce seasonal peak day demands that result in the need for costly expansion of water treatment, storage, and transmission facilities. Such year-round practices shall include:

- a. Reducing the indoor water waste by encouraging the installation and maintenance of ultra-low flow toilets, faucet aerators, low-flow showerheads and similar devices, as well as other creative and commonsense indoor conservation practices.
- b. Reducing irrigation and irrigation-related water waste without sacrificing landscape quality through the cultivation of lower water use plants; improved landscape design and planting practices; more efficient watering practices; and improved irrigation system design and maintenance.
- c. Increasing the use of non-potable water, as permitted by appropriate public health regulations, for irrigation and other uses that do not require water of potable quality.

(2) Provide an orderly process for reducing community-wide water demands during periods of drought or other naturally occurring causes of water shortages; and

(3) Provide an orderly process for reducing community-wide water demands during periods of water shortages due to natural disaster (other than drought), major OWASA facilities failure, or other unexpected and sudden loss of water supply, treatment, or distribution capacity that constitutes a water supply emergency.

Section 5-23 Definitions

Unless otherwise specifically provided or unless otherwise clearly required by the context, the words and phrases defined below shall have the meaning indicated when used in this article:

(1) *Automatic Controller*. A mechanical or electronic device capable of operating an irrigation system and its component valve stations according to a pre-determined schedule of irrigation frequency and duration.

- (2) *Cistern*. A tank or container, typically located underground, for the storage and subsequent reuse of rainwater collected from rooftops or other impervious surfaces that would have otherwise evaporated or drained off the premises.
- (3) *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.
- (4) *Even-Numbered Properties*. Properties with street addresses that end in even-numbered digits, or other properties so designated for purposes of these Standards through special arrangements with OWASA.
- (5) *Graywater*. Wastewater removed from household wash basins, bathtubs, or showers. Graywater may only be reused in accordance with practices approved by applicable regulatory agencies.
- (6) *Hand Watering*. The application of water for irrigation purposes through a handheld hose or watering container.
- (7) *Harvested Water*. Precipitation or irrigation runoff collected, stored and available for reuse for irrigation purposes.
- (8) *Irrigation System*. Any permanently installed system of pipes, hoses, or other conveyance devices and appurtenances that provides water to living plant material through spray heads or other emission devices located at, above, or below the ground surface. For the purposes of these Standards, a sprinkler, soaker hose, or other device connected to its water source via a moveable above-ground garden hose is not considered to be an irrigation system.
- (9) *Landscape Area*. That portion of a parcel that contains turf or non-turf vegetation.
- (10) *Low-Precipitation Bubbler*. An irrigation head which typically operates within six inches of ground level and delivers water at a rate of less than 0.45 gallons per minute within a radius of less than two feet of the head. Low-precipitation bubblers are typically used for irrigating non-turf vegetation.
- (11) *Micro Spray*. The application of irrigation water through small, low volume sprayer heads in order to minimize runoff losses. Micro sprays are typically used for irrigating non-turf vegetation. Individual micro spray heads typically operate less than 12 inches above ground level and typically deliver water in the range of 0.10 to 0.50 gallons per minute within a radius of five feet or less of the head.
- (12) *Mulch*. A protective covering of organic material, such as sawdust, wood chips, compost, or other vegetative matter, spread on the ground to reduce evaporation and increase water retention.

(13) *Odd-Numbered Properties*. Properties with street addresses that end in odd numbered digits, or other properties so designated for the purposes of these Standards through special arrangements with OWASA.

(14) *Overall Water Demand*. The total water demand for any given month, as projected by OWASA.

(15) *OWASA*. The Orange Water and Sewer Authority.

(16) *Potable Water*. Treated water provided by OWASA that is suitable for drinking, cooking, and other domestic use. Water that is collected indoors in containers from indoor faucets or spigots that would otherwise be discharged into drainpipes while a user awaits the warming of the water for dishwashing, other washing, shaving, bathing, or showering is not considered to be potable water for the purposes of these Standards.

(17) *Precipitation Rate*. The amount of water applied per unit of time, usually expressed in inches per hour.

(18) *Public Purpose Athletic or Recreational Field*. An athletic or recreational field owned or leased by a public or not-for-profit entity and which is (i) operated for the use of the public pursuant to general invitation, and (ii) not operated for the purpose of profit. For purposes of this definition, a golf course is not considered to be a public purpose athletic field or recreational field.

(19) *Public Purpose Botanical Site*. A landscaped area which is owned or leased by a public or not-for-profit entity in which a variety of plants are grown to be categorized and documented for scientific purposes and/or which may also be open to the public for entertainment and educational purposes.

(20) *Public Right-of-Way*. The area of land owned or maintained by municipal, county, or state government primarily for the use of the public for the movement of people, goods, vehicles, or storm water. For the purposes of these Standards, the public right-of-way shall include curbs, streets, sidewalks, and storm water drainage inlets, but shall not include adjacent landscaped areas that also may be located within the legally delineated public right-of-way.

(21) *Rain Barrel*. A tank or container, typically located on the ground beneath a roof drainage system that captures and stores rainwater for subsequent reuse.

(22) *Raw Water*. Water drawn from a reservoir or other water source before treatment.

(23) *Reclaimed Water*. Highly treated effluent from a wastewater treatment plant that can be safely used for non-potable purposes approved by applicable regulatory agencies.

(24) *Runoff*. Water that is not absorbed by the soil or landscape to which it is applied. Runoff occurs when water is applied too quickly (application rate exceeds infiltration rate), particularly if there is a severe slope. These Standards do not apply to stormwater runoff which is created by natural precipitation rather than human-caused or applied water use.

(25) *Service Area*. The geographic area in which OWASA provides or is authorized to provide water and/or sewer service.

(26) *Shut-Off Nozzle*. A device attached to the end of a hose that completely shuts off the flow, even if left unattended.

(27) *Soaker Hose*. A flexible hose designed to emit a trickle of water along its entire length, either through numerous small-diameter (less than 1/32-inch) perforations or through the permeable material of its composition.

(28) *Spray Irrigation*. The application of water to landscaping by means of a device, other than a hand-held hose or watering container, that projects water through the air in the form of small particles or droplets.

(29) *Sprinkler Head*. A device that projects water through the air in the form of small particles or droplets.

(30) *Underground System*. An irrigation system with emitters installed beneath the ground surface.

(31) *Water Conservation Plan (OWASA-Approved)*. A written document submitted by the owner or operator of a public purpose athletic field, recreational field, and/or a public purpose botanical site and approved by OWASA's Executive Director or the Executive Director's designee that specifies the conservation measures and irrigation operating modes that will be employed year-round at those public purpose facilities and the specific practices that will be employed to achieve Stage 1, 2, and 3 Water Shortage conservation goals enumerated in these Standards.

(32) *Water Waste*. The non-beneficial use of OWASA potable water. Non-beneficial uses include but are not restricted to:

a. 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.

b. The use of water for washing vehicles, equipment, or hard surfaces, such as parking lots, aprons, pads, and driveways in such quantities to flow onto adjacent property or the public right-of-way.

- c. Water applied in sufficient quantity to cause ponding on impervious surfaces.
- d. Water lost through plumbing leaks that can be readily identified and corrected.

(33) *Watering Bag*. A container used to hold and slowly dispense water around the base of a tree or shrub. These are commonly called “Gators.”

(34) *Xeriscaping*. An approach to landscape design and maintenance that uses small amounts of water but sustains a traditional look through the proper conditioning of soil, the selection of appropriate drought-tolerant plants, generous use of mulch, efficient use of water, and other proven techniques.

Section 5-24 Water Waste Prohibited

- (a) No person, party, or entity shall use, cause, waste, or permit to be wasted any OWASA supplied potable water in violation of the provisions of this article.
- (b) Penalties for violation of the provisions of this article are set forth in Section 5-21 of this chapter.
- (c) In addition, OWASA may discontinue water service to any customer where, after notice of a prohibited use is delivered to the service address, OWASA-supplied potable water continues to be used or wasted in violation of the Water Conservation Standards set out herein.

Section 5-25 Year Round Requirements: Exterior Use

- (a) The following outdoor or exterior use requirements shall apply to all customers using OWASA supplied potable water:
 - (1) Spray irrigation shall not occur more than three days per week. Even-numbered properties may be irrigated with spray systems only on Sundays, Wednesdays, and/or Fridays. Odd-numbered properties may be irrigated with spray systems only on Tuesdays, Thursdays, and/or Saturdays. All spray irrigation shall occur only between the hours of 6:00 p.m. and 10:00 a.m., and shall apply no more than one inch of water in any given week. These restrictions shall not apply to properties using underground, drip irrigation, micro spray, low precipitation bubblers, soaker hoses, hand watering, tree or shrub watering bags, or where watering of containerized plants and commercial plant stock in trade is maintained for resale.
 - (2) All irrigation systems shall be equipped with automatic controllers that activate the system according to a desired frequency and duration, and shall also be equipped with rain or soil moisture sensors that will prevent irrigation during periods of rainfall or when there is sufficient moisture in the ground for plant health and survival.

(3) All hoses used for hand watering, vehicle washing, or other allowable outdoor uses shall be equipped with shutoff nozzles.

(4) No exterior use of OWASA-supplied potable water shall result in the flow of water onto adjacent property or public right-of-way, and all irrigation systems shall be designed and maintained to prevent to the extent practicable water from flowing onto paved or other impervious surfaces.

(5) Outdoor water leaks on property or facilities of OWASA customers shall be repaired within ten (10) days of discovery by the customer and/or notification by OWASA.

(b) Owners of public purpose athletic fields, recreational fields, and/or public purpose botanical sites shall not be subject to the year-round limitations of Subsection (a) of this section if those facilities are operated in compliance with an OWASA-approved Water Conservation Plan that specifies the conservation measures and irrigation operating modes to be employed at that facility year-round and during successive stages of a declared water shortage.

(c) Unless superseded by the declaration of a Water Supply Shortage or Emergency, the year-round requirements of Subsections 5-25(a)(1) and (a)(2) shall not apply to the following:

(1) Outdoor irrigation necessary for the establishment of newly sodded or seeded lawns and for the establishment of new non-turf plant materials within the first 45 days of planting, provided that such irrigation occurs only between the hours of 6:00 p.m. and 10:00 a.m.

(2) Irrigation necessary for one day only where treatment with an application of chemicals requires immediate watering to preserve an existing landscape or to establish a new landscape, provided that such irrigation occurs only between the hours of 6:00 p.m. and 10:00 a.m.

(3) Water used to control dust or to compact soil when alternate methods are not available.

(4) Visually supervised operation of watering systems for short periods of time to check system condition and effectiveness.

(5) Water used for construction or maintenance activities where the application of water is the appropriate methodology and where no other practical alternative exists.

(6) Water used for firefighting, firefighter training, fire hose testing, fire pumper testing, and other emergency situation mitigation purposes.

(7) For situations in which there is no practical alternative, OWASA-supplied potable water may be used for other special purposes, such as washing out garbage trucks, cleaning up hazardous or unsanitary materials, etc., or for other purposes necessary to protect public health, safety, and welfare – provided that such water is used in the least quantity needed to accomplish the task.

Section 5-26 Year-Round Requirements: Interior Use

(a) The following indoor or interior use requirements shall apply to all customers using OWASA supplied potable water:

(1) Restaurants and dining facilities shall serve water only on request of the customer.

(2) Hotels, motels, and other facilities providing sleeping accommodations shall change bed linens only upon request of the customer, or upon customer changeover, or every five days for long-term customers.

(3) Indoor water leaks on property or facilities of OWASA customers shall be repaired within ten (10) days of discovery by the customer and/or notification by OWASA.

(b) Unless superseded by the declaration of a Water Supply Shortage or Emergency, the year-round requirements of subsection (a) of this section shall not apply to the following:

(1) Visually supervised operation and flushing of plumbing systems for short periods of time to check system condition and effectiveness.

(2) Water used for construction or maintenance activities where the application of water is the appropriate methodology and where no other practical alternative exists.

Section 5-27 Year Round Policy and Practice

It shall be OWASA's policy and practice to publicize periodically water conservation methods, including but not limited to, methods of conserving water both indoors and outdoors; methods of collecting and storing harvested water in appropriate devices, such as rain barrels and cisterns; as well as information about the availability, feasibility and allowable uses of reclaimed water from OWASA. It shall be OWASA's policy to strongly encourage and promote the following voluntary conservation measures year round, regardless of water supply conditions:

(1) Operate dishwashers and clothes washers only when loaded to their maximum capacity or at water level settings appropriate for the size of the load.

- (2) Where not otherwise required, install ultra-low flow toilets, tank dams, flow restrictors (aerators) and low-flow showerheads.
- (3) Repair and maintain plumbing systems to prevent water leaks.
- (4) Use harvested rainwater and/or reclaimed water for indoor and outdoor purposes where allowable and practical.

Section 5-28 Determination by OWASA of a Water Supply Shortage or Emergency

(a) Draught Condition Shortage.

(1) OWASA's drought response strategy and Water Supply Shortage declarations will be guided primarily by the risk that OWASA's water supplies will decline to 20 percent or less of total storage capacity within the next 12-month period. A Stage One Water Shortage declaration will generally correspond to a two percent (or greater) risk that reservoir levels will decline to 20 percent or less of total storage capacity within the next 12 months; provided, however, that in making such a determination, OWASA will also consider the actual and projected severity of the ongoing drought relative to historical droughts included in OWASA's water supply simulation models; existing and anticipated demand, including expected customer response to water use restrictions; availability of supplemental supplies, including water purchases from neighboring communities; regional water supply conditions, including, but not limited to, the concurrent drought response status of neighboring jurisdictions; guidance or directives from the State of North Carolina; and other elements of reasonable professional judgment and management.

(2) More severe Water Supply Shortage Stages will subsequently be declared if the risk level increases and/or if other factors indicate that further action is needed. Similarly, OWASA will reduce the severity of, or rescind, a Water Supply Shortage declaration as the risk level and related factors improve.

(b) Water Treatment, Storage, or Distribution Capacity Shortage. In addition to conditions caused by drought, OWASA may declare a Water Supply Shortage or Emergency whenever customer demand – as averaged over three consecutive days – exceeds 85 percent of OWASA's capability of treating and delivering water. The stage and duration of such a Water Supply Shortage or Emergency shall be guided by the degree to which customer demands approach or exceed OWASA's capacity to meet those demands, and by the degree to which conservation efforts successfully reduce short-term demands.

(c) Disasters and Catastrophic Equipment or Plant Failure Shortage. Any other circumstances, including service losses caused by equipment or facility failure, human error, deliberate act, weather, or other natural disaster, which constrain OWASA's water supply, treatment, or distribution capacity to less than that reasonably needed by its

customers, shall constitute a Water Supply Shortage up to and including a Water Supply Emergency, requiring immediate action by OWASA.

Section 5-29 Required Actions Under Water Supply Shortage or Emergency Conditions

(a) In the event of a water supply shortage, OWASA shall, using its best professional judgment, determine which of the following stages is the most appropriate response to the estimated level of risk considering factors in Subsection 5-27(a).

(b) Stage One Water Shortage. In the event that OWASA declares a Stage One Water Shortage, OWASA shall advise the Mayors of Carrboro and Chapel Hill and the Chair of the Orange County Board of Commissioners of its declaration and shall request that they issue Proclamations of a Stage One Water Supply Shortage. Upon the issuance of such a proclamation by the Mayor, the following actions shall be taken with the goal of reducing overall water demand by ten (10) percent:

(1) Spray irrigation of turf grass using OWASA-supplied potable water shall not occur more than one day per week with a maximum of one-half inch of water applied to plant material in any given week. Odd-numbered properties shall be allowed to spray irrigate only on Tuesdays; even-numbered properties shall be allowed to spray irrigate only on Thursdays. Spray irrigation of turf grass shall occur only between the hours of 6:00 p.m. and 10:00 a.m. Owners of public purpose athletic fields, recreational fields, and/or public purpose botanical sites shall not be subject to the limitations of this subsection (b)(1) if those facilities are operated in compliance with an OWASA-approved Water Conservation Plan.

(2) Spray irrigation of non-turf plant materials may occur up to three days per week as provided under the year-round requirements specified in Subsection 5-25(a)(1).

(3) Irrigation of non-turf plant materials by underground, drip irrigation, micro spray, low precipitation bubblers, soaker hose systems with automatic shutoffs, or by hand held hoses or watering cans may occur at any time or frequency.

(c) Stage Two Water Shortage. In the event that OWASA declares a Stage Two Water Shortage, OWASA shall advise the Mayors of Carrboro and Chapel Hill and the Chair of the Orange County Board of Commissioners of its declaration and shall request that they issue Proclamations of a Stage Two Water Supply Shortage, if not already issued. Upon the issuance of such a proclamation by the Mayor, the following actions shall be taken with the goal of reducing overall water demand by fifteen (15) percent:

(1) Spray irrigation of turf grass with OWASA-supplied potable water shall not be permitted, except at public purpose athletic and recreational fields and public purpose botanical sites operating under OWASA-approved Water Conservation Plans.

(2) Spray irrigation of non-turf plant materials shall not occur more than one day per week according to the schedule specified in Subsection 28(b)(1) and in quantities of no more than ½ inch per week, except at public purpose botanical sites operating under OWASA approved Water Conservation Plans.

(3) Irrigation of non-turf plant material by underground, drip irrigation, micro spray, low precipitation bubblers, soaker hose systems with automatic shutoffs, tree or shrub watering bags, or by hand held hoses or watering cans may occur at any time or frequency.

(4) No OWASA-supplied potable water shall be used to re-fill ornamental fountains, ponds, and like devices; provided, however, that OWASA water may be used to fill and re-fill bird baths and other backyard-scale facilities used to support wildlife.

(5) No OWASA-supplied potable water shall be used for washing vehicles, except at commercial or institutional car washes in which at least 50 percent of the water has either been recycled, is from a non-potable source, or is supplied by a well.

(6) No OWASA-supplied potable water shall be used for cleaning or washing exterior building surfaces, decks, or paved areas, such as sidewalks, driveways, roadways, and parking lots. This restriction shall not apply to the cleaning of exterior building surfaces or decks prior to painting or re-painting.

(7) No OWASA-supplied potable water shall be used for fire department training or equipment testing unless required by State or Federal regulations.

(d) Stage Three Water Shortage. In the event that OWASA declares a Stage Three Water Shortage, OWASA shall advise the Mayors of Carrboro and Chapel Hill and the Chair of the Orange County Board of Commissioners of its declaration and shall request that they issue Proclamations of a Stage Three Water Supply Shortage, if not already issued. Upon the issuance of such a proclamation by the Mayor, the following actions shall be taken with the goal of reducing overall water demand by twenty (20) percent:

(1) The use of OWASA-supplied potable water for heating and/or cooling purposes shall be reduced in all but the most essential facilities to the extent practical in consideration of indoor air quality standards, weather conditions, and health and safety requirements.

(2) No OWASA-supplied potable water shall be used for irrigation of turf grass, except for public purpose athletic and/or recreational fields and public purpose botanical sites operating under water conservation plans that have been approved by OWASA's Executive Director or the Executive Director's designee.

(3) No OWASA-supplied potable water shall be used for irrigating non-turf plant material unless applied (i) via hand held hoses or watering cans, watering bags, drip irrigation or soaker hoses, or (ii) at public purpose botanical sites operating under OWASA-approved Water Conservation Plans.

(4) OWASA-supplied potable water may be used to fill, re-fill, or top off swimming pools, or to fill or re-fill bird baths and other backyard-scale facilities used to support wildlife. OWASA supplied potable water shall not be used for any other outdoor purposes, except for emergency fire suppression or other activities necessary to maintain public health, safety, or welfare.

(5) No bulk sale of potable OWASA water shall occur except for the wholesale transmission of potable OWASA water to neighboring communities, or for other purposes necessary to maintain public health, safety, or welfare.

(6) No OWASA-supplied potable water may be used for washing any vehicles.

(7) No OWASA-supplied potable water may be used for pressure washing building exteriors.

(8) No OWASA-supplied potable water may be used for fire department training or equipment testing.

(e) Water Supply Emergency. In the event that OWASA declares a Water Supply Emergency, OWASA shall so advise the Mayors of Carrboro and Chapel Hill and the Chair of the Orange County Board of Commissioners and shall request that they issue Proclamations of a Water Supply Emergency. Upon the issuance of such a proclamation by the Mayor, the following actions shall be taken, in addition to those applicable measures listed above for a Stage Three Water Shortage:

(1) No OWASA-supplied potable water may be used for any outdoor purposes other than emergency fire suppression or other activities necessary to maintain public health, safety, or welfare.

(2) No OWASA-supplied potable water shall be used to fill, refill or top off the water level in any private or public purpose swimming pool.

(3) No OWASA-supplied potable water shall be used for the flushing or pressure testing of new distribution lines unless that water is returned to the OWASA water supply system through methods approved by OWASA. This restriction shall not apply to the testing of in-building fire control sprinkler systems

(4) The use of OWASA-supplied potable water for heating and/or cooling purposes shall be reduced in all but the most essential facilities to the extent practical in consideration of indoor air quality standards, weather conditions, and health and safety requirements.

(5) Water service may be discontinued or reduced to designated users or in designated portions of the OWASA service area in order to preserve the availability of water for essential public health and safety requirements, such as fire protection, hospitals, clinics, and other critical community needs.

(f) Exceptions. Notwithstanding the restrictions specified in Subsections (b), (c), (d), and (e) of this section, the protection of public health, safety, and welfare may, under special circumstances, require the use of limited amounts of OWASA-supplied potable water for such purposes as washing out garbage trucks, cleaning up hazardous or other materials. Such uses shall be permitted during declared Water Shortages or Emergencies, provided that other practical alternatives are not available and water is used in the least practical amount.

Article IV

ILLICIT DISCHARGES INTO AND CONNECTIONS TO STORM SEWER SYSTEM

Section 5-30 Purpose

The purpose of this article is to regulate illicit discharges into and connections to the storm sewer system in order to comply with the requirements of the Town's National Pollutant Discharge Elimination System Permit.

Section 5-31 Definitions

Unless otherwise specifically provided, or unless otherwise clearly indicated by the context, the words and phrases defined in this section shall have the meaning indicated when used in this article.

- (1) *Administrator*. The person assigned by the Town Manager to enforce or otherwise perform any duties required under this article.
- (2) *Discharge*. To put, place, dump, spill, pump, pour, or otherwise deposit any solid or liquid material.
- (3) *Illicit Connection*. Any drain, pipe, or other constructed or manufactured conveyance through which or by which any liquids, other than stormwater or those liquids listed in subsection 15-32(b), are conveyed and discharged directly into the storm sewer system or a surface water.
- (4) *Illicit discharge*. A discharge that violates Subsection 5-32 (a).
- (5) *Pollutant*. Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; soaps and cleaning solutions; kerosene, gasoline, oil and other automotive fluids; liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects or accumulations, to the extent that the same may cause or contribute to pollution; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, sewage sludge, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; dredged spoil; filter backwash; salt; chemical wastes; biological materials; toxic materials; radioactive materials; wrecked or discarded equipment; sand; dirt; ashes and incinerator residue; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind. This includes any chemical additive to water potentially causing or contributing to pollution. (*Amend. 5/3/22*)
- (6) *Pollution*. The alteration of the physical, thermal, chemical, or biological quality of, or the contamination of, any water of the State or of the United States, that renders the

water harmful, detrimental, or injurious to humans, animal life, vegetation, or property, or to the public health, safety, or welfare, or impairs the usefulness or the public enjoyment of the water for any lawful or reasonable purpose.

(7) *Storm Sewer System*. A system of human-produced structures owned by the Town of Carrboro or the North Carolina Department of Transportation or another State agency that is designed to collect or convey stormwater, including but not limited to streets (including associated curbs, gutters, drainage ditches, or swales), inlets, culverts, drainage pipes, detention or retention basins, and other drainage structures and facilities.

(8) *Stormwater*. Any surface flow, runoff, or drainage that occurs during or following any form of natural precipitation and that results from such precipitation.

(9) *Surface waters*. All, streams, lakes, and ponds that appear as surface waters on either the most recent version of the soil survey map prepared by the Natural Resources Conservation Service of the United States Department of Agriculture or the most recent version of the 1:24,000 scale (7.5 minute) quadrangle topographic maps prepared by the United States Geologic Survey (USGS) as well as Town regulated streams. (*Amend. 5/3/22*)

Section 5-32 Illicit Discharges Prohibited

(a) No person may discharge or cause to be discharged, or allow to be discharged from property under such person's control, any pollutant directly or indirectly into the storm sewer system or into surface waters.

(1) A direct discharge occurs when a pollutant is discharged within the physical limits of the storm sewer system or within the banks of a stream or inside the mean high water level of a pond or lake.

(2) An indirect discharge occurs when a pollutant is discharged outside the physical limits of the storm sewer system or outside the banks of a stream or beyond the mean high water level of a pond or lake but takes place in such a manner or location that the pollutant is carried into the storm sewer system or surface water in some way other than by action of the wind or stormwater. By way of illustration without limitation, an indirect discharge would occur if water from a commercial car wash is discharged onto the area where the cars are washed and allowed to drain into a public street.

(3) An indirect discharge also occurs when a pollutant is discharged (i) outside the physical limits of the storm sewer system or outside the banks of a stream or beyond the mean high water level of a pond or lake, but (ii) with the specific intent that the pollutant be disposed of by being carried (by the wind or stormwater or otherwise) into the storm sewer system or a surface water, and (iii) the pollutant or some part or portion thereof does reach the storm sewer system or surface water. By way of illustration without limitation, dumping used oil near the

edge of a stream with the intent that the next rain will carry the oil into the stream constitutes an indirect discharge within the meaning of this subsection.

(b) Notwithstanding the other provisions of this article, the following shall not be regarded as constituting an illicit discharge:

- (1) Water line or hydrant flushing;
- (2) Landscape or garden irrigation or lawn watering;
- (3) Diverted stream flows;
- (4) Rising ground waters;
- (5) Uncontaminated ground water infiltration (as defined at 40 CFR 35.2005(20));
- (6) Uncontaminated pumped ground water;
- (7) Discharges from potable water sources;
- (8) Foundation drains;
- (9) Air conditioning condensation;
- (10) Springs;
- (11) Water from crawl space pumps;
- (12) Footing drains;
- (13) Individual residential car washing or charity car washing that does not allow water to directly enter the stormwater system; (*Amend. 5/3/22*)
- (14) Flows from riparian habitats and wetlands;
- (15) Dechlorinated swimming pool discharges that discharge across ground in a diffuse and non-erosive manner outside the stream buffer; (*Amend. 5/3/22*)
- (16) Street wash water;
- (17) Flows from fighting fires;
- (18) Other non-stormwater discharges for which a valid NPDES discharge permit has been approved and issued by the State of North Carolina;

(19) Runoff from residential properties that is discharged as diffuse flow in a non-erosive manner outside the stream buffer. (*Amend. 5/3/22*)

Section 5-33 Illicit Connections Prohibited

(a) No person may cause, suffer, or permit on property under such person's control any illicit connection to the storm sewer system, including without limitation connections of drains or lines that convey sewage, process wastewater, wastewater from washing machines, wash water from commercial vehicle washing or steam cleaning, or water from indoor sinks or floor drains.

(b) Subject to subsection (c), if, on the effective date of this article, an illicit connection as defined in this article exists, then such situation shall not be considered a violation of this article until ninety (90) days after the Town mails by first class mail written notice to the owner (according to the most recent property records) of the property where the condition exists, informing such owner of the nature of the violation and what must be done to correct it.

(c) The ninety day grace period provided for in subsection (b) of this section shall not apply if the administrator concludes that an illicit connection:

(1) Is likely to result in the discharge of hazardous materials or otherwise pose an immediate threat to health or safety, or is likely to result in immediate injury to real or personal property, natural resources, wildlife, or habitat; or

(2) Was made in violation of any applicable statute, regulation, or ordinance.

Section 5-34 Inspections

(a) Upon the presentation of proper credentials, Town officers, agents, and employees engaged in the enforcement of this article shall have a right to enter on any premises within the Town at all reasonable hours for the purpose of making inspections, collecting samples or carrying out other enforcement actions under this article. (*Amend. 5/3/22*)

(b) No person may obstruct or interfere with any Town officer, agent, or employee of the Town engaged in the lawful performance of any task authorized or required by this article.

Section 5-35 Enforcement

The Administrator is authorized to enforce the provisions of this article through the penalties and remedies available for enforcement as set forth in Section 5-21 of this chapter. In addition, nothing in this article is intended to preclude the Town from resorting in appropriate circumstances to the procedures set forth in Chapter 11, Article V, Part 2 of the Town Code

dealing with the summary abatement of conditions dangerous or prejudicial to the public health.
(Amend. 5/3/22)