

**ORDINANCE NO. 08-22**

**AN ORDINANCE ESTABLISHING THE POLICIES AND PROCEDURES  
FOR THE PROVISION OF REFUSE SERVICE BY THE VILLAGE**

**WHEREAS**, the Village provides electric, refuse collection, water, and sewer and refuse collection services (herein “utility services”) in the Village; and

**WHEREAS**, the Village desires to amend, update and standardize the policies and procedures regulating the provision of refuse collection service in the Village through the creation of appropriate codes pertaining to the provision of refuse collection service to: 1) facilitate the fair and equitable provision of refuse collection service; and 2) delineate the Village’s obligation to provide refuse collection service; and

**WHEREAS**, the Village desires to formalize and codify its policies and procedures with respect to the provision of Refuse Service provided by the Village; and

**WHEREAS**, this ordinance creates a Chapter 907 of a Village Code within a Title 9 of the Village Code and sets forth the Village’s policy with regard to policies and procedures for the provision of refuse collection service by the Village.

**WHEREAS**, unless specifically required or prohibited by this Chapter, the Village Management shall have the authority to interpret this Chapter to implement the intent and purpose of this Chapter to provide safe, reliable, and efficient delivery of utility service, and the Village Management shall have the discretion and authority to grant relief from the strict application of this Chapter in those situations where the Village Management, in the exercise of professional judgment, determines such relief is warranted for the safe, reliable, and efficient operation of the utility service; and

**NOW, THEREFORE, BE IT ORDAINED**, by the Council of the Village of Versailles, Ohio:

**SECTION ONE:** The Village of Versailles hereby enacts the following refuse collection regulations applicable to the provision of Refuse Collection Service by the Village.

**907.01 Provisions Related to Refuse Collection Service**

(a) This section is enacted to preserve and promote the public health, safety, and welfare by establishing minimum standards for the storage, collection, transportation, and disposal of acceptable and unacceptable waste in order to maintain a sanitary environment for the residents of the Village. Whenever this section conflicts with any other portion of the Village Code, this section shall prevail with respect to any matters relating to acceptable or unacceptable waste generated at residential units or places of business.

(b) The rates for the provision of refuse collection service have been established by separate ordinance which may be amended from time to time.

(c) The terms used herein shall have the same definitions as set forth in Chapter 901, General Utility Procedures, unless otherwise defined herein.

(d) If any portion, section, or part of a section of this refuse collection Code is declared by a court of competent jurisdiction to be invalid, illegal, or void, such declaration shall be limited to that portion, section, or part of a section that was directly involved in the controversy before the court upon which judgment was rendered, and shall not affect or impair the validity of the remainder of the refuse collection Code.

**907.02 Definitions for Purposes of Refuse Collection, Chapter 907**

(a) Acceptable Waste - means that portion of the waste stream that is normally disposed of by occupants of premises within the Village, including common waste, yard waste, recyclables, white goods, and bulk refuse.

(b) Bagging Up - means placing acceptable common household waste into plastic or paper bags prior to placement in the applicable acceptable waste container.

(c) Bulk Refuse - means items which are acceptable waste, with the exclusion of yard waste, that requires special collection arrangements due to size, weight, or shape, including, but not limited to appliances, furniture, mattresses, or box springs.

(d) Common Household Waste - means waste originating from residential and small business premises and includes, but is not limited to fiber material, paper, cardboard, packaging, cans, bottles, jars, food wastes, and other similar materials.

(e) Construction, Remodeling, and Demolition Waste - means all waste building materials, rubble, and spoils resulting from construction, remodeling, repair, and demolition operations on buildings, dwelling units, places of business, garages, pavements, streets, alleys, trenches, ditches, underground utilities, excavations, and other structures, including, but not limited to roofing, concrete and cinder block, plaster, lumber, structural steel, plumbing fixtures, electrical wiring, heating and ventilation equipment, windows and doors, interior finishing materials such as carpet, woodwork and cabinets, siding, sheathing, and aged railroad ties.

(f) Hazardous Waste - means any chemical, compound mixture, substance, or article which has been designated by the United States Environmental Protection Agency or an appropriate agency of the State to be hazardous, including, but not limited to flammables such as paint, gasoline, lacquer thinner, or any container that once contained these materials, as well as propane tanks, gun powder, and other explosives, and automobile batteries.

(g) Illegal Dumping - means Open Dumping, as defined in Ohio Revised Code Section 3734.01(I), improper disposal of acceptable and unacceptable waste, as defined in this Chapter, and Littering, as defined in this Chapter.

(h) Littering - means throwing or dropping acceptable or unacceptable waste into the waterways or onto public or private property of this Village.

(i) Medical Waste, Infectious Waste - If any other governmental agency or unit having appropriate jurisdiction determines that substances which are not as-of-yet medical waste, are in fact medical waste, then any such substances or materials should thereafter constitute medical waste. "Medical Waste" includes, but is not limited to:

1. Cultures and stocks of infectious agents and associated biologicals;
2. Laboratory wastes that were, or are likely to have been, in contact with infectious agents that may present a substantial threat to public health if improperly managed;
3. Pathological wastes;
4. Waste materials from the rooms or humans, or the enclosures of animals, that have been isolated because of diagnosed communicable disease that are likely to transmit infectious agents;
5. Human and animal blood specimens and blood products that are being disposed of, not including patient care waste such as bandages or disposable gowns that are lightly soiled with blood or other body fluids.

6. Contaminated carcasses, body parts, and bedding of animals that were intentionally exposed to infectious agents during research, production, of biologicals, or testing of pharmaceuticals, and carcasses and bedding of animals otherwise infected that may present a substantial threat to public health if improperly managed;

7. Sharp wastes such as hypodermic needles, syringes, scalpel blades used in the treatment, diagnosis, or inoculation of human beings or animals or that have, or are likely to have come in contact with infectious agents in medical research or industrial laboratories and which must be placed into puncture-resistant containers before disposal;

8. Any other waste materials generated in the diagnosis, treatment, or immunization of human beings or animals, in research pertaining thereto, or in the production or testing of biologicals that the public council created in the Ohio Revised Code Section 3701.33;

9. Any other waste materials the generator designates as infectious waste.

(j) Open Dumping - means the putting of acceptable or unacceptable waste into a body or stream of water or onto the surface of ground at a site that is not licensed as a solid waste facility under the Ohio Revised Code Section 3734.05.

(k) Plastic or Metal Container - means: 1) a container of galvanized iron or other suitable material, as approved by the Village Management, with handles and a tight-fitting lid, that is watertight, and no more than thirty-five (35) gallons in size and no more than seventy-five (75) pounds in weight including both container weight and weight of contents; or 2) a container available from the Village that is compatible with any automated collection and tipping service provided by the Village.

(l) Point of Collection - means the area of right-of-way adjacent to, or within one (1) foot of paved or traveled roadways (including alleys).

(m) Recyclable Materials - means materials that have been separated out of common household waste, including, but not limited to: aluminum cans, bi-metal cans, glass containers, polyethylene terephthalate (PET) plastic beverage containers, high-density polyethylene (HDPE), corrugated paper (cardboard and paper boxes), magazines, computer printout paper, computer tab cards, steel cans, newspaper, and paper products not chemically coated.

(n) Recycling Bins/Containers - means metal or plastic receptacles, approved by the Village Management, used exclusively for designated recyclable materials.

(o) Refrigerants and items containing chlorofluorocarbons or their substitutes - means refrigerators and other devices utilizing either chlorofluorocarbons as a coolant or the substitutes for chlorofluorocarbons which are subject to special handling requirements.

(p) Unacceptable Waste - means that portion of the waste stream that will not be collected by the Village and which may or may not be collected by an authorized, licensed commercial waste hauler. If any other governmental agency or unit having appropriate jurisdiction determines that substances which are not as of yet considered harmful, toxic, or dangerous are in fact harmful, toxic, or dangerous or are hazardous or harmful to health, then any such substances or materials should thereafter constitute unacceptable waste. "Unacceptable Waste" includes, but is not limited to:

1. Medical waste, infectious waste;
2. Radioactive waste;
3. Hazardous waste;

4. Explosive materials;
5. Liquid waste including motor oil;
6. Asbestos;
7. Whole and shredded tires;
8. Lead acid batteries;
9. Drums and barrels;
10. Motor vehicles or major parts thereof;
11. Equipment or machinery;
12. Construction, remodeling, and demolition waste;
13. Refrigerants or items containing chlorofluorocarbons (CFC's) or their substitutes;
14. Ashes of any kind;
15. Offal or animal wastes, byproducts, or hide trimmings;
16. Animal carcasses other than those that are in the public right-of-way;
17. Contaminated soil;
18. Shredder fluff from shredding automobiles, light-duty trucks, motor vehicle engines, household appliances, white goods, and other miscellaneous metal parts; and
19. Other items as may be determined by the Village Management.

(q) White Goods - are a type of Bulk Refuse that may be recycled or resold, including, but not limited to large, enameled appliances such as clothing washers and dryers, dish washers, electrical heaters, hot water heaters, stoves, and ovens.

(r) Yard Waste - means all garden residue, leaves, grass clippings, shrubbery and tree prunings, holiday trees, tree trimmings, and other plant waste generated as a result of gardening, landscaping, or similar activity.

### **907.03 Duties of the Public - Storage and Disposal of Waste**

(a) General Duty for Acceptable Waste. It shall be the duty of any person at all times to cause Acceptable Waste generated at premises to be contained for collection and disposed by the Village or an authorized, licensed commercial waste hauler in a manner that does not violate this Section.

(b) General Duty for Unacceptable Waste. It shall be the duty of any person at all times to cause Unacceptable Waste generated at Premises to be contained for collection and disposal by an authorized, licensed commercial waste hauler in a manner that does not violate this Section.

(c) Duty to Provide Adequate Interim Acceptable Waste Storage. Each Customer shall be required to provide interim storage of Acceptable Waste generated or found upon the property in a plastic or metal container, except for bulk and white goods, during the time between collections from such property.

(d) Removal of Containers. Property owners/occupants shall remove any waste container(s) from the point of collection (public right-of-way) within twenty-four (24) hours of the collection and store such containers until twelve (12) hours prior to the next scheduled collection.

(e) Any person who fails to place waste container(s), yard waste, and recyclables at the point or points of collection on the scheduled day and by the scheduled time shall either:

1. Dispose of the uncollected Acceptable Waste generated on the premises, other than bulk and white goods, within twenty-four (24) hours of the scheduled day and time at the expense of said person; or

2. Remove any waste container(s), including yard waste and recyclables receptacle(s) from the point of collection within twenty-four (24) hours subsequent to the scheduled collection time, store such receptacles until twelve (12) hours prior to the next scheduled collection, and return the receptacle or container to the point or points of collection no more than twelve (12) hours before the next scheduled day and time of collection.

(f) **Duty to Keep Collection Area Free of Debris and Spillage.** It shall be the duty of the property owner and/or occupant(s) to keep the designated point of collection and the surrounding area free of debris, spillage, and other overflow.

(g) **Duty to Collect and Dispose of Items After Eviction.**

1. It shall be the duty of any owner or lessor of any premises in the Village where a court supervised set-out is performed in any eviction action to keep on their property any Acceptable or Unacceptable Waste and to dispose of the same in accordance with this Code.

2. When a court supervised set-out is performed in any eviction action, it shall be the duty of the plaintiff in such action to promptly notify the Village of the date and time of such set-out.

3. The Customer and/or the Property Owner(s) shall be responsible for all costs incurred associated with the removal of any Acceptable Waste by the Village.

(h) **Collection of Refrigerants and Items Containing Chlorofluorocarbons (CFC's) or Their Substitutes.**

1. It shall be the duty of any person to properly dispose of any refrigerant or item containing Chlorofluorocarbons (CFC's) or their substitute pursuant to Ohio Revised Code Section 3767.29.

2. It shall be the duty of any person to arrange for an authorized, licensed commercial waste hauler, or other authorized entity, to perform such services to collect and dispose of refrigerants and items containing Chlorofluorocarbons or their substitutes at the resident's expense.

(i) **Building or Remodeling: Duty of Owners.** Any owner shall provide for or secure service with an authorized, licensed commercial waste hauler for property storage, collection, and disposal of construction and demolition waste generated at or incident to the building or remodeling process. In addition, said owner shall provide or have said hauler provide storage capacity which is sufficient to contain the construction and demolition waste between disposal service and shall keep such storage capacity for the duration of the project.

(j) The Village shall provide seasonal Yard Waste collection from approximately April 15<sup>th</sup> through November 15<sup>th</sup>. The Village shall collect Yard Waste in approved Yard Waste Containers. The Village Management shall establish a schedule for the collection of Yard Waste.

(k) The Village, at its discretion, may provide for curbside collection of brush and other debris from vegetation landscaping that does not fit in approved Yard Waste collection receptacles. Such brush collection service shall be provided at the discretion of the Village Management. The occupants of the Premises must call and notify the Village whenever brush needs to be collected.

(l) White Goods. It shall be the duty of any person to contact the Village Customer Service Department to purchase special, non-refundable tags for the collection and disposal of such White Goods. Collection arrangements for such White Goods will be at the discretion of the Village.

(m) No person shall dump, deposit, place, or cause to be dumped, deposited, or placed upon any public property, any Acceptable or Unacceptable Waste, except in authorized containers in accordance with this Code.

(n) Noncompliance. Any person disposing of Acceptable or Unacceptable Waste generated at premises in violation of this Chapter shall be subject to the penalties set forth herein, and shall retain ownership of and responsibility for such waste until such waste is properly disposed.

#### **907.04 - Container Requirements**

(a) Each residential unit shall be permitted up to five (5) thirty-five (35) gallon containers of refuse per weekly pick up.

(b) Commercial establishments routinely generating quantities of refuse and garbage subject to Village pick up disposal exceeding one hundred and seventy-five (175) gallons (five 35-gallon containers) per week shall be required to provide a Village-approved dumpster. Such dumpster, container, or multiple thereof, shall be located in accordance with established Village requirements.

(c) Those commercial establishments receiving Village notification of the need to provide suitable dumpster type containers shall be made subject to a \$25.00 monthly penalty charge for failure to provide such container. This penalty charge shall be due and owing thirty (30) days after such commercial establishment is notified of the need for such container, and monthly penalty charges shall continue to be due and owing to the Village until such time that an acceptable dumpster style container is provided and located in accordance with Village requirements.

#### **907.05 - Additional Commercial Volumes:**

(a) For those business establishments not providing dumpsters:

1. No **routine** additional volumes would be picked up.
2. **Occasional** additional volumes set out, with such occasions not exceeding six (6) months per year, would be picked up at no extra charge...providing that such additional total volume does not more than double the routine volume being billed for. After the sixth (6<sup>th</sup>) occurrence of additional volumes in a calendar year, a penalty charge of ten dollars (\$10.00) per each additional 35-gallon volume picked up by the Village shall be assessed.

(b) For those business establishments providing dumpsters:

1. **Routine** pick up of additional volumes not exceeding one hundred and forty (140) gallons would be permitted; providing such additional volumes are put out in acceptable containers or bundles. Such routine additional volumes picked up will be subject to an additional monthly charge of four dollars (\$4.00) per each additional 35-gallon capacity picked up by the Village.
2. **Occasional** additional volume set out, such occasions not to exceed six (6) times per year, would be picked up at no extra charge; providing that such additional total volume does not exceed one hundred and forty (140) gallons. After the sixth (6<sup>th</sup>) occurrence of additional volume in a calendar year, a penalty charge of ten dollars (\$10.00) per each additional thirty-five (35) gallon volume picked up by the Village would be made.

## 907.06 - General Prohibitions

(a) Prohibitions - No person, firm, or corporation shall, within the limits of the Village, engage in any of the following act or acts:

1. Littering: No person shall deposit, scatter, or leave upon any public street or private or public property, any garbage, trash, debris, refuse, or other offensive material within the Village. All such items shall be deposited with the Village in accordance with the regulations provided for refuse collection.
2. Burning or Burying: No person shall, within the limits of the Village, throw any Acceptable or Unacceptable Waste upon the ground, or bury the same on any premises, or burn the same except in a heating plant so designated as to thoroughly consume the same without causing a nuisance of smoke, ash, odor, or fire hazard. Waste paper, leaves, or household refuse may be burned within the Village in such manner and mode as Council shall provide by regulation.
3. Private Collection: No person shall collect or deposit refuse of another for payment or for any other consideration, and the Village is hereby designated authorized collector of all Acceptable Waste. Private individuals, firms, or corporations may, if desired, remove all Unacceptable Waste or waste not collectable by the Village produced by themselves and may privately dispose of same either by themselves or by private collection.
4. License: All persons, firms, and corporations transporting and/or disposing of refuse for hire within the Village shall be registered with and approved by the Village. This subsection shall not apply to any persons transporting and/or disposing of waste produced on the premises of such person, and shall not apply to any governmental agency.
5. Waste Storage: No person shall store or accumulate, or permit to be stored or accumulated, any Acceptable or Unacceptable Waste generated at residential units and/or upon premises under his or her control, except such waste that is stored in containers as required and authorized by this Chapter.
6. Improper Disposal of Acceptable or Unacceptable Waste. Any person violating this Section shall be in violation of this Chapter and shall be penalized according to this Chapter.
7. Obstructing Passage of Village Waste Collection Vehicles.
  - a. The passage of refuse collection vehicles through the streets and alleys of the Village shall not be obstructed in any manner, including, but not limited to obstructions caused by the placement of parked vehicles, obstructing vegetation, or improperly strung wires or cables.
  - b. It shall be the duty of any owner, lessor, tenant, agent, or lessee in charge of the obstructing vehicles, vegetation, wires, or cables to remove, cause to be removed, or cause to be set at an appropriate height, such obstruction when the Village Management determines that such removal or height adjustment is reasonable and necessary.
  - c. The Village accepts no responsibility for damage caused by refuse collection vehicles to obstructing vegetation, vehicles, or improperly strung wires or cables.
8. Scavenging - No person shall remove any Acceptable or Unacceptable Waste set out for collection by the Village or an authorized, licensed commercial waste hauler under contract with the Village, unless such person has been authorized to do so by the Village, the owner of such waste, or the authorized, licensed commercial waste hauler.

## **907.07 Duties of the Village**

### **(a) General Duties.**

1. Acceptable Waste. It shall be the duty of the Village to cause the collection and disposal of Acceptable Waste generated at premises in the Village that is properly disposed of in conformance with this Chapter. Any Acceptable Waste generated at premises in the Village set out for collection and disposal by the Village shall become the property of the Village upon collection. The Village will only collect Acceptable Waste generated at premises in the Village.

2. Unacceptable Waste - The Village does not collect Unacceptable Waste for disposal. Disposal of Unacceptable Waste shall be the responsibility of the property owner or occupant. Unacceptable Waste shall be disposed in accordance with the provisions of this Chapter.

### **(b) Point of Collection.**

1. When the Village determines prior to collection that an item is Unacceptable Waste, the Village shall set aside and tag the Unacceptable Waste. The property owner shall be responsible for securing an authorized, licensed commercial waste hauler to properly collect and dispose of the Unacceptable Waste.

2. If the owner cannot be determined, the Village shall notify the appropriate enforcement agency to have the matter investigated for remediation.

3. Inadvertently Collected. When the Village inadvertently collects Unacceptable Waste, and the Village can identify the property or owner from which the Unacceptable Waste was collected, the Village shall invoice the owner for all collection and disposal costs the division and/or the appropriate enforcement agency incurs.

(c) No person, other than the Village, shall have the right to collect Acceptable Waste from any point of collection, residential unit, or premises, lot, street or alley, public or private, in the Village or transport said Acceptable Waste in any manner along the streets, highways, or alleys, or on public or private property within the Village.

(d) Frequency of Collection. The Village shall collect not less than once per calendar week, except during weeks in which a Village-declared holiday is observed, an emergency is declared, or severe weather or other extenuating circumstances exist.

(e) Time of Collection. In residential areas, collection shall be completed between the hours of five a.m. and ten p.m., unless the Village Management determines that these hours should be altered, extended, or restricted due to an emergency, severe weather, or other extenuating circumstances.

(f) Disposal of Dead Animals. The Village shall provide for the collection and disposal of animal carcasses within the Village right-of-way or Village-owned property.

## **907.08 Powers of the Village Administrator.**

(a) The Village Administrator is authorized to promulgate operating policies and procedures, rules, and regulations, and to grant exemption service and variances as deemed necessary and may revoke such exemption service or variances when the condition warrants. The Village Administrator may permit a reasonable minimum variance from an applicable section of this Chapter if:



1. A literal application of the applicable section would cause an unnecessary and unreasonable financial hardship; and
2. The public health, safety, or welfare of the community may not reasonably be expected to be materially threatened by failure to correct the violation being appealed; and
3. The granting of such variance will not cause a violation or conflict with any other section of the Village Code.

(b) In order to protect the public health, safety, and welfare of, or the health, safety, and welfare of any person, the Village Administrator shall have the following authority, functions, and duties:

1. To enforce the provisions of this Section by conducting or causing to have conducted inspections and re-inspections, and by issuing notices of violation whenever a premises is used or maintained contrary to the provision of this Code;
2. To maintain records of inspections performed and notices/orders issued;
3. To abate public nuisances.

(c) Authority.

1. The Village Administrator shall have the supervision, control, and direction over matters relating to refuse collection at any premises and the power and duty to administer and enforce the provisions of this Refuse Collection Code by means of forfeitures, injunctive actions, criminal complaints, and other remedies available at law.
2. The Village Administrator is authorized to determine on what premises in the Village there exists a public nuisance. After a determination has been made that a public nuisance which endangers the public health, safety, or welfare, or the health, safety, or welfare of any person exists, the Village Administrator shall have the authority to abate such nuisance in compliance with the Village Codes or State law.

(d) Enforcement, Inspection, Right of Entry, Evidence.

1. The Village Administrator, or designees, in enforcing the provisions of the Refuse Collection Code is hereby authorized and directed to make inspections pursuant to procedures of inspection; or in response to a complaint that an alleged violation of the provision of this Code or of applicable policies and procedures, rules or orders pursuant thereto may exist; or when the Administrator has valid reason to believe a violation of this Code or any policies and procedures, rules and orders pursuant thereto has been or is being committed.
2. Upon presentation of proper credentials, the Village Administrator, or designees, are authorized, where permission is granted, to enter any premises in the Village at reasonable times to perform any duty imposed on the individual by this Code. If any owner of a building or premises subject to the provisions of this Code fails or refuses to permit free access and entry to a dwelling, dwelling unit, multiple dwelling, business building, or premises under his or her control or any part thereof, the Village Administrator may apply to a judge of a court of record, pursuant to Ohio Revised Code 2933.21(F) for a warrant of search to conduct an inspection. A warrant of search to conduct an inspection shall not be issued except upon probable cause, as provided in Ohio Revised Code Section 2933.22.
3. Every occupant of a premises shall give the owner or operator thereof, or keeper, agent, or employee access to any part of such premises at all

reasonable times for the purposes of making such inspection, maintenance, repairs, or alterations, as necessary to comply with the requirements of this Code.

4. All records pertaining to the identification of a complainant shall be kept confidential to the extent allowed by law, from public record of inspection, and notice of violation.

5. The Village Administrator may obtain samples for evidence during inspections.

#### **907.09 Notice of Violation**

(a) Issuance of Notice of Violation. Whenever the Village determines there exists a condition that violates any provision or requirement set forth in this Refuse Collection Code, it may issue a notice setting forth the alleged violation(s) and advising the owner that such violation(s) must be corrected.

(b) Content of Notice of Violation.

1. All notices of violation, except emergency orders, shall be in writing and shall be served on the person from whom action, forbearance, or compliance is required.

2. All notices of violation shall identify the sections of the Refuse Collection Code to which the order applies.

3. All notices of violation shall provide a description of the premises where the violations are alleged to exist or to have been committed; and/or a description of the public nuisance and the premises where the said public nuisance is alleged to exist.

4. All notices of violation shall specify a reasonable time for compliance with the order.

5. All notices of violation shall advise the owner of the right to appeal.

6. All notices of violation shall advise the owner that if the order is not complied with by the specified date of compliance, the Village may initiate a civil and/or criminal complaint against the owner; and/or the director may, by Village personnel or private contractor, cause the violation(s) to be corrected, with the cost of such correction to be charged as a lien upon the real estate.

(c) Service of Notice of Violation. A notice of violation shall be served upon the owner or any person from whom action, forbearance, or compliance is required. Such notice shall be served by any one (1) of the following methods:

1. Personal service;

2. Certified mail;

3. Residence service;

4. Publication in a newspaper of general circulation in the Village;

5. Regular mail service to an address that is reasonably believe to be: a) a place of residence of the owner; or b) a location at which the owner regularly receives mail; or

6. Posting the notice on the property, except that if a structure or premises is vacant, then the notice shall be posted on the structure or premises and one (1) of the above methods of service shall also be used.

(d) When the notice of violation has been properly serviced, the order shall be effective as to anyone having any interest in the premises, whether recorded or not at the time the order was issued, and shall be effective against any subsequent owner of the premises as long as the violation exists and there remains a Village record of the order in a public file maintained by the Village.

(e) Written or oral acknowledgment of the owner of receipt of a notice of violation shall be evidence that the owner received the notice of violation. An appeal of the notice of violation by the owner shall constitute evidence of written acknowledgment by the owner of service of notice of violation.

#### **907.10 Powers and Duties of the Village Utilities Policies Committee**

The Village Utilities Policies Committee shall have the authority to take appeals pertaining to the granting of variances and deny, uphold, or otherwise modify or waive actions or requirements on a case-by-case basis.

#### **907.11 Right to Appeal to the Village Utilities Policies Committee**

(a) The Village Administrator shall send written notice of a final decision or action to the party involved in the decision. Such notice shall be in writing and sent certified mail. If the certified mail is returned, notice may be served by regular mail or by posting the property of the party involved. Any notice served shall automatically become an order if a written petition for appeal is not filed in the Village Administrator's Office within twenty (20) calendar days after the notice is served. Notice shall be considered served the date that certified or regular mail is sent to the party or the date that notice is posted on the property of the party.

(b) Any person adversely affected or his duly authorized representative or agent who wishes to appeal a final decision or action made by the Village Management may file a petition for appeal within twenty (20) calendar days of the Village Administrator's final decision or action. Said filing shall be made at the Village Administrator's Office. The petition for appeal shall contain the name, address, telephone number of the appellant, the filing date, and a statement of the intent to appeal. Any pertinent documentation should be attached to the petition for appeal.

(c) Appeal Hearing. The Village Utilities Policies Committee shall conduct an adjudication hearing within forty-five (45) calendar days of the receipt of the petition for appeal. The Village Utilities Policies Committee shall notify the appellant or his duly authorized representative or agent of the date, time, and place of the appeal hearing in writing at least fourteen (14) calendar days prior to the scheduled appeal hearing. All parties will have the right to appear and be heard in person by, or with the assistance of, legal counsel; provided such counsel is licensed to practice law in the State of Ohio. All parties have the right to present evidence and witnesses, cross-examine adverse witnesses, proffer evidence into the record if its admission has been denied, and request the sequestering of witnesses.

(d) All appeals will be conducted based on evidence provided by the parties that is relevant to the case. The Village Utilities Policies Committee is not limited by the Ohio Rules of Evidence when ruling on the admissibility of evidence. The evidence shall be marked as it is presented by the parties. All testimony shall be given under oath, with the chairperson administering the oath.

(e) Any documents needed by the appellant will be available for inspection or duplication within a reasonable time of receipt by the Village Administrator's Office of a written request from the appellant requesting documents held by the division. If deemed necessary, there may be a fee assessed on the actual cost of copying. The Board shall have the power to subpoena and require both the attendance of witnesses and the production of documents.

(f) The appellant shall have the burden of proof that the decision or action of the Village Management should be modified or dis-affirmed. The standard of proof is a preponderance of the evidence.

(g) The Village Utilities Policies Committee shall render a decision in writing within thirty (30) days after the conclusion of the appeal. A copy of the decision shall be sent to the appellant and his duly authorized representative or agent. An indexed record of the appeal shall be maintained for no less than sixty (60) calendar days from the date of the Board's final decision. The record may be made by stenographic means or by the use of audio electronic recording devices. The Village Utilities Policies Committee may decide or dismiss an appeal in the absence of the appellant or his authorized representative if proper notice of the hearing was given and no request to continue the hearing was made or granted in advance of the hearing. An adverse decision by the Village Utilities Policies Committee may be appealed to the Council of the Village of Versailles, Ohio, pursuant to Chapter 901, Section 901.03.

**907.12 Application for Reduced Refuse Collection Service Fee**

(a) A Customer can make application to the Village for a reduced refuse collection service fee under the following circumstances:

1. Extended Vacancy of the premises due to being unoccupied. The premises must be considered unoccupied and vacant. It shall be within the sole discretion of the Village Management in the exercise of reasonable judgment as to whether a premises is to be considered vacant for the purposes of this section. Such Vacancy must be for a minimum of ninety (90) consecutive days in order to be entitled to a reduced refuse collection fee. Such reduced refuse collection fee shall terminate upon reoccupation of the premises and the full applicable refuse collection service fee shall be reinstated.
2. Premises under construction.

(b) A Customer seeking a reduced refuse collection fee shall apply to the Village. The decision of whether to grant the reduced refuse collection fee shall be in the sole discretion of the Village applying the above criteria. Such reduced fee, if granted, shall run from the date such reduced fee eligibility is determined by the Village through the ending date recorded on the application filed with the Village.

(c) The reduced refuse collection service fee has been established by separate ordinance which may be amended from time to time.

**907.99 Penalty**

Whoever violates or fails to comply with any of the provisions of this Chapter is guilty of a minor misdemeanor and shall be fined not more than one hundred fifty dollars (\$150.00) for each separate offense. Each day of failing to comply with any of the provisions herein shall constitute a separate offense.

**SECTION TWO:** Ordinance Numbers 70-5 and 87-23, previously adopted by the Council, are hereby repealed and of no further force or effect to the extent they are inconsistent with the terms and provisions of the ordinance hereby adopted.

**SECTION THREE:** That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this ordinance were adopted in an open meeting of the Council, and that all deliberations of this Council, and of any of its committees, that resulted in such formal action, were conducted in meetings open to the public, in compliance with all legal requirements.

**SECTION FOUR:** If any section, subsection, paragraph, clause, or provision or any part thereof of this ordinance shall be finally adjudicated by a court of competent jurisdiction to be invalid, the remainder of this ordinance shall be unaffected by such adjudication, and all the remaining provisions of this ordinance shall remain in full force and effect as though such section, subsection, paragraph, clause or provision, or any part thereof so adjudicated to be invalid had not, to the extent of such invalidity, been included herein.

**SECTION FIVE:** That this ordinance shall take effect at the earliest date allowed by law.

**PASSED**, this 14<sup>th</sup> day of May 2008.

JEFFRY A. SUBLER, MAYOR

ATTEST:

MARY ANN GUMP, FISCAL OFFICER

APPROVED AS TO FORM:

THOMAS L. GUILLOZET, VILLAGE ATTORNEY