

## ARTICLE 4

### GENERAL PROVISIONS

#### Section 4.1 Customary Home Occupations

Customary home occupations may be established in any dwelling unit. The following requirements shall apply in addition to all other applicable requirements of this Ordinance for the district in which such uses are located:

- 4.1.1** The home occupation shall be clearly incidental and subordinate to the residential use of the dwelling and shall not change the residential use of the dwelling.
- 4.1.2** No more than one (1) accessory building or outside storage area shall be used in connection with the home occupation, and shall be located in the rear yard only.
- 4.1.3** Use of the dwelling for the home occupation shall be limited to twenty-five percent (25%) of the area of the principal building. Hours of operation may only be established between the hours of 8:00 A. M. and 9:00 P. M.
- 4.1.4** Only a resident of the dwelling may be the home occupation operator. No more than two (2) people who do not reside on the premises may be employed.
- 4.1.5** No display of products shall be visible from any adjoining streets or properties. Sales of products are limited to those made on the premises and those which are accessory to the service being provided.
- 4.1.6** No alterations to the exterior appearance of the residence or premises shall be made which change the residential characteristics.
- 4.1.7** Only vehicles used primarily as passenger vehicles (e.g., automobiles, vans, sports utility vehicles and pick-up trucks) shall be permitted in connection with the conduct of the customary home occupation.
- 4.1.8** Chemical, mechanical, electronic or electrical equipment that creates odor, light emission, noises, or interference with radio or television reception detectable outside of the dwelling shall be prohibited.
- 4.1.9** No traffic shall be generated by the home occupation in greater volumes than would normally be expected in a residential neighborhood. Any need for parking generated by the conduct of the home occupation shall be provided off the road right-of-way.

**4.1.10** One (1) non-illuminated professional name plate, occupational sign, or business identification sign mounted flush to the dwelling unit and not more than one and one-half (1 1/2) square feet in area shall be allowed.

**Section 4.2 Screening and Landscaping**

Screening required by any of the following sub sections or by any other section of this Ordinance shall be provided in accordance with the following standards:

1. Such screening shall be located on the property with the use with which it is associated or required, and shall materially screen the subject use from the view of the adjoining properties. Screening shall be in the form of all natural material, including brick with no exposed cement block. When screening is in the form of natural vegetation, a buffer strip at least ten (10) feet wide shall be planted. This strip shall be free of all encroachments by building, parking areas or impervious coverage.
2. Buffer requirements include a given minimum distance separation from the property line and required planting trees and shrubs within the buffer. The minimum buffer requirements, which are based on the size of the lot, shall be in accordance with Table 4.2(a).

**Table 4.2(a)**

ACRES	Less than 0.5	0.5	1.0	1.5	2.0	2.5	3.0	3.5	4.0	4.5	5.0	5.5	6.0	6.5	7.0	7.5	8.0	8.5	9.0	9.5	10 or more
<b>BUFFER WIDTH*</b>	10	12	14	16	18	20	22	24	26	28	30	32	34	36	38	40	42	44	46	48	50
<b>TREES (per 100 ft)</b>	3	3	3	4	4	4	5	5	5	6	6	6	7	7	7	7	8	8	8	8	9
<b>SHRUBS (per 100 ft)</b>	20	20	20	20	20	20	20	20	20	20	20	20	20	20	20	20	20	20	20	20	20

\* The minimum width of a buffer may be reduced by an additional 20% if a fence or wall is constructed accordance with these regulations.  
ft = feet of buffer width.

3. The width of the buffer may be reduced by twenty percent (20%) if a wall or fence is provided that meets the following standards:
  - (a) Any fence or wall shall be constructed in a durable fashion of brick, stone, or other masonry materials, or any combination thereof as may be approved by the Zoning Administrator. No more than twenty-five (25%) of the fence surface shall be left open and the finished side of the fence shall face the abutting property.

- (b) Walls and fences shall be a minimum height of six (6) feet.
4. Required trees and shrubs within the buffer shall meet the following standards:
- (a) Forty percent (40%) of the required trees within the buffer shall be large maturing trees. *(Rev. 06.14.2010)*
  - (b) All trees shall have a minimum caliper of two and one-half (2 1/2) inches, measured six (6) inches above ground and the minimum height of all trees shall be eight (8) feet at the time of planting;
  - (c) Shrubs shall be evergreen and at least three (3) feet tall when planted with the average height of six (6) feet in three (3) to four (4) years. However, twenty-five percent (25%) of the shrubs may vary from the above standard. The allowed variations are as follows:
    - (i) Shrubs may be deciduous; or
    - (ii) Shrubs may be two (2) feet tall when planted, provided an average height of three (3) to four (4) feet is expected as normal growth within four (4) years.
- Shrubs planted on a berm may be of lesser height, provided the combined height of the berm and plantings is at least eight (8) feet after four (4) years.
- (d) Shrubs and trees shall be on the approved plant list in Appendix 1; (See Article 17)
  - (e) All specifications for the measurement, quality, and installation of trees and shrubs shall be in accordance with the “American Standards for Nursery Stock: published by the American Association of Nurserymen, and free of disease; and
  - (f) Twenty-five percent (25%) of all trees shall be evergreen, except when screening Essential Services. Essential Services are to be screened by one-hundred percent (100%) evergreen trees, from Appendix 2: List of Acceptable Screening Plant Species for Essential Services and shall consist of at least three (3) different species. *(Rev. 06.14.2010)*
5. Landscaping buffers will have an arrangement of trees and shrubs in the buffer area, which shall be done in a manner that provides a visual separation between abutting land uses. Shrubs shall be massed in rows or groups to achieve the maximum screening effect, except when screening Essential Services. While they need not be made invisible, Essential Services are to be screened in a uniform

manner to provide consistent screening from all adjacent properties. (*Rev. 06.14.2010*)

6. In the event that it can be demonstrated that existing vegetation meets the intent of this Section, but the plant materials are not on the approved list, the Zoning Administrator may waive the requirements for plant materials. If a plant material is not on the approved list, the Zoning Administrator may determine whether it is acceptable.
7. Berms may be used as screening provided such berms are at least six (6) feet in height with a maximum slope of 4:1 as measured from the exterior property line.
  - (a) Berms shall be stabilized to prevent erosion and landscaped; and
  - (b) If a berm is constructed, shrubs are required but the number may be reduced by twenty-five percent (25%). However, constructing a berm does not modify the number of trees required.
  - (c) If a berm is used as a screen for an Essential Services, Class II use, the backside of the berm can be up to a 2:1 slope. (*Added 01.14.08*)
8. Required buffers shall not be disturbed for any reason except for required driveways, sidewalks, or other pedestrian or bicycle paths, walls, fences, or required landscaping, landscaping maintenance or replacement, or maintenance and construction of berms, or utility lines. However, utility line construction must meet the following requirements:
  - (a) The removal of any tree larger than six (6) inches in caliper or any dogwood or redbud larger than two (2) inches in caliper shall require the approval of the Zoning Administrator;
  - (b) No utility easements shall run longitudinally within a buffer yard.
9. To the extent possible, the path cleared for the utility lines shall be replaced with plant materials which are consistent with those that existed prior to utility line construction in the buffer yard.
10. In no case shall the plant species of *Pueraria thumberfiana* ('Kudzu') be used for planting with the buffer.
11. All buffer screening materials shall be maintained in a horticultural manner similar to the surrounding areas, i.e. mowing, irrigation, fertilizing, mulching. The owner of the property and any tenants shall be jointly and severally responsible for maintenance of all required screening. (*Added 01.14.08*)

12. All buffers shall be constructed in a manner that shall allow for adequate sight distance where subdivision streets intersect with the thoroughfare.
13. If utilities are located within the buffer yard, then the right-of-way width must be added to the total buffer width, in addition to the required width in Table 4.2(a). This additional buffer width can be added into the calculated lot area.
14. If above ground utilities are to remain in the buffer yard, then all landscaping, including the location of a berm, must be located outside the right-of-way for the utility (ies).

**4.2.1** Business, commercial and light industrial uses adjacent to residential zoning shall provide screening to materially screen the subject use from the view of all adjoining residential zoning districts.

**4.2.2** Off-street parking and loading facilities, and dumpsters adjacent to residential zoning or located in a residential district, shall provide screening.

**4.2.3** For open-air storage, or an un-enclosed structure within one hundred (100) feet of a road, consisting of a roof, but no walls, used for storage of materials, products, wastes or equipment associated with business or certain conditional uses, screening shall be provided. Such screening may be located anywhere on the subject property provided the storage is effectively screened. Screening required by this subsection shall be in accordance with all other applicable requirements of Section 4.2.

**4.2.4** The screening provisions of Section 4.2 of this Ordinance shall be minimum screening standards required for the issuance of a Conditional Use Permit as provided in Article 6 of this Ordinance, however, the Village Council may impose additional reasonable screening requirements as a condition for awarding a Conditional Use Permit as the Council considers necessary to protect the public health, safety and welfare in accordance with the purpose and intent of this Ordinance.

**4.2.5** In cases where screening is required by this Ordinance and devices such as existing vegetation or topographical features or extreme size of the tract involved would render the installation of screening unnecessary, the Zoning Administrator is hereby empowered to accept the existing features as meeting the general requirements. Such decision shall be based on the spirit and intent of Section 4.2. If at any time after existing topographical features or size of the lot are thereafter altered so as to render them inadequate as screening, the owner of the land shall provide screening as described in Section 4.2 to achieve the required screen. The vacancy or non-use of adjacent property shall not negate the necessity for installation

of screening.

- 4.2.6** The foregoing subsections shall be construed to require screening along side and/or rear property lines adjacent to residential zoning but in no case shall screening be required along a public street except as provided in Sections 4.2.3 and 4.2.4.
- 4.2.7** Uses permitted within the business districts shall provide street trees as landscaping along the front property line, along the side street property line on a corner lot and along the rear property line when the rear property line lies directly across the street from a residential district. Such trees shall be installed in accordance with the following standards:
- a. Such trees may be evergreen or deciduous.
  - b. Such trees shall be a minimum of eight (8) feet high at planting.
  - c. The maximum spacing between trees shall be thirty (30) feet.
- 4.2.8** Street trees shall, when possible, be located immediately behind any involved right-of-way. When it is necessary to locate landscaping required by this section on the right-of-way of a state maintained road, an encroachment agreement shall be obtained from the NCDOT and recorded with the Zoning Administrator. Consideration should be given to the alignment of trees or shrubs installed on an adjoining lot and when possible the alignment should be continued along the street. Encroachment into the sight distance area as defined in Section 4.6 of this Ordinance shall be allowed subject to the requirement that landscaping installed within a sight distance shall be set back as far as is practicable from the intersection of the two streets forming the intersection and shall not be of a height to interfere with sign distance.
- 4.2.9** In cases where existing trees on a lot or lots are located within the required setback, and where existing trees would inhibit or restrict the growth of street trees required by this section, the Zoning Administrator may authorize that low growing shrubbery be installed in lieu of trees. Such shrubs shall adhere to the locational requirements stated in Sections 4.2.7 and 4.2.8. If, at any time thereafter, street trees are removed, the owner of the land shall provide screening as described in Section 4.2.
- 4.2.10** Essential Services, (excluding transmission and distribution lines) shall be naturally screened on all sides in compliance with the following requirements:
- a. Class I and Class IV – none
  - b. Class II and Class III – Minimum buffer Width thirty (30)

feet, to be increased according to Table 4.2(a) for properties greater than five (5) acres, plus seven (7) medium maturing-trees per 100 feet, and seven (7) small maturing trees or twenty (20) shrubs per 100 feet, in two staggered rows, as measured from Essential Service Facilities and associated parking, or an acceptable landscaping plan as part of the conditional use process.

Screening shall also comply with additional requirements in Section 4.2.  
*(Section 4.2.10 revised 06.14.2010)*

### **Section 4.3 Fences and Walls Permitted**

Unless otherwise noted in this Ordinance, fences or walls are permitted in the various districts subject to the following regulations:

#### **4.3.1 In Residential Districts:**

- a. Within the required rear and side yard areas the maximum height of a fence (except court perimeter fences) or wall shall be eight (8) feet.
- b. Within the required front yard area, the maximum height of a fence shall be five (5) feet with an unobstructive view. *(4.3.1.b - Revised 12.09.02)*
- c. No portion on any fence or wall shall be located within the established right-of-way of any publicly maintained road unless an encroachment agreement has first been obtained from the governmental body maintaining said road.
- d. Subdivision entry and perimeter walls are not required to be of any specific height or style, but are subject to specific review and approval of the Village of Wesley Chapel Planning Board prior to the start of construction. Said review and approval shall include any signage and/or illumination integral to subdivision entry and perimeter walls.

#### **4.3.2 In Business Districts:**

- a. Within the required rear and side yard areas the maximum height of a fence or wall shall be eight (8) feet.
- b. Within the required front yard area, the maximum height of a fence shall be five (5) feet.

**Section 4.4 Lot to Abut a Public Street**

No building or structure shall be erected or located, nor shall any principal use be instituted on a lot which does not abut a public street with the following exceptions:

**4.4.1** A single-family dwelling or manufactured home may be constructed on a lot which does not abut a street provided such a lot existed prior to the date this Ordinance became effective and provided such lot is provided access to a public street by an easement at least twenty (20) feet in width for occupants of the dwelling established on such lot and further provided that such easement is maintained in a condition passable for service and emergency vehicles. Said easement may also be used, where needed for the installation and maintenance of utility facilities.

**4.4.2** Lots may be created and approved by the Planning Board in accordance with **Section 409 Of the Subdivision Ordinance of the Village of Wesley Chapel.** *(Added Section 407 - 09.10.01) (Changed Section 407 to 409 on 06.10.02)*

**Section 4.5 One Principal Building**

- A. In any single-family residential district, one (1) single-family dwelling unit or one (1) modular home or one (1) manufactured home and accessory structure(s) shall be permitted on a single lot which meets at least the minimum requirements of this Ordinance.
- B. In any business district, a detached building or a group of detached buildings shall be either permitted as a matter of right or may be authorized by a Conditional Use Permit (Article 6) on a single lot, which meets at least the minimum requirements of this Ordinance.

**Section 4.6 Visibility at Intersections**

No structures, buildings, or other improvements over three and one-half (3 1/2) feet high will be permitted within ten (10) feet of the right-of-way of an intersection, except as provided in Section 4.2.8 of this Ordinance.

**Section 4.7 Temporary Structures and Uses**

Temporary structures and uses, when in compliance with all applicable provisions of this Ordinance and all other ordinances of the Village of Wesley Chapel, shall be approved by the Zoning Administrator who shall issue a permit for such approval. The following

temporary structures and uses shall be permitted:

- 4.7.1** In the event of a disaster, the result of which would require the rebuilding of a dwelling, the owner and his family may occupy a manufactured home on the property. The permit shall be issued for a six (6) month period and may be renewed by the Village Council provided that construction has proceeded in a diligent manner.
- 4.7.2** Manufactured homes, construction trailer and temporary buildings not for residential purposes when used by a contractor for field offices and storage during the building of structures on the same site or subdivision are permitted. The permit shall be issued for a six (6) month period and may be renewed by the Village Council provided that the construction has proceeded in a diligent manner.
- 4.7.3** Turkey shoots not prohibited by the Firearms Ordinance, sales of agricultural plant products (as defined in Article 2), 4-H shows, charitable uses, Federal, State or Local Government-sponsored public events and/or non-profit organization-sponsored events of a limited nature and for a limited time may be allowed, but shall be specifically permitted. Vehicles and trailers may remain on the property overnight with written permission from the event organizer, with the exception of vehicles or trailers containing hazardous materials, such as explosives, fireworks, or fuel, which shall not be left overnight. One (1) On-Premises sign, limited to twelve (12) square feet and not in violation of Section 8.5, shall be permitted for the duration of the use, as specified in an approved application. Parking, ingress and egress shall be adequate and not represent a safety hazard. The use shall not disturb neighboring properties with respect to noise, vibration, lighting or odor. Each such permit shall be issued for a period of forty-five (45) days.  
A Temporary use permit shall not be issued for any single property more than four (4) times per calendar year, except that there shall be no limit on the number of temporary use permits issued for Federal, State or Local government-sponsored public events and/or non-profit organization-sponsored events.  
Temporary use permits shall not be approved and can be revoked should the Zoning Administrator determine the required criteria have not been met, or no acceptable remedy proposed/implemented, at any point during the application or operation of the temporary use. *(Rev. 02.08.2010, 12.13.2010, 10.18.2011, 10.14.2013, 08.10.2015)*
- 4.7.4** Structures, whether temporary or permanent, located in a subdivision, and used as sales offices for the subdivision development are allowable, but shall be specifically permitted. Such permits shall be issued by the Zoning Administrator for a period of one (1) year, and are renewable for a period

of time as determined by the Village Council, provided the development is being actively marketed. At the completion of the sales in a tract, the temporary structure(s) shall be removed, and any permanent structure(s), temporarily used as a sales office shall be used only for a purpose otherwise permitted in that district.

**4.7.5** Sidewalk/Special Sales Events shall not be located within public right-of-way, shall not obstruct ingress/egress to a parking area, shall be held with permission of the property owner, shall not operate beyond the operating hours of the sponsoring entity or between 11:00 pm and 5:00 am (whichever is more restrictive), shall provide adequate restroom facilities and shall be specifically permitted. A Temporary Use Permit shall be issued to the sponsoring entity by the Zoning Administrator, if approved, for a period of three (3) days and shall include any additional conditions deemed appropriate by the Zoning Administrator. The permit shall authorize all participating mobile vendors, however, mobile vendors are required to adhere to all applicable regulations in Section 4.7.6. (*Sec. 4.7.5 added 02.08.2010*)

**4.7.6** Mobile Vendor. (*Sec. 4.7.6, including (a) – (m) added 02.08.2010*) No mobile vendor shall be installed, maintained, or operated in any zone unless the standards and requirements set forth in this Section are complied with and maintained. Mobile vendors are allowed only in commercial and industrial zones or any zone on Village of Wesley Chapel-owned property or non-profit institutional property, subject to the approval of a Temporary Use Permit by the Zoning Administrator. Such a Temporary Use Permit shall include any conditions appropriate to assure compliance of the requirements of this section, shall be limited to forty five (45) days in duration and may include additional conditions and requirements that are found appropriate to assure the use will not be detrimental to health, safety, peace, morals, comfort or general welfare of persons residing or working in the neighborhood:

(a) Every mobile vendor shall be a temporary day-to-day use and all equipment, including any stand, cart, table, or vehicle, shall be removed at the end of each sales day, excepting those vendors associated with a sidewalk/special sales event where removal of equipment is not customary.

(b) Every mobile vendor shall have written permission from the property owner or lessee of property on which the vendor is located, a copy of which shall be filed with the operators' application. The operator shall also have a copy of the permission statement required by these provisions at the vendor location for inspection upon request by any person authorized to enforce the provisions of this Section.

(c) No activities relating to the operation of a mobile vendor, including customer parking, shall occur, without express permission from the property owner

(d) All stands, carts, vehicles, and display of merchandise shall be set back not less than ten (10) feet from any property line.

(e) No mobile vendor, stand, cart, vehicle, merchandise, or parking area shall be located which restricts the visibility of vehicles along any adjacent streets or of vehicles entering or exiting the site.

(f) One temporary/portable sign shall be allowed, not to exceed six (6) square feet in area, and shall be removed when vendor has completed daily sales activity. No sign shall obstruct view of bicyclists or motorist using any street, private driveway, approach to any street intersection, or which interferes with the effectiveness of or obscures any traffic sign, device or signal.

(g) No food items shall be prepared and/or sold for immediate consumption on site, except for sidewalk/special sales events.

(h) Only one vendor at a time may conduct business on any parcel of property, except commercial shopping center properties or sidewalk/special sales events.

(i) At least one trash receptacle shall be provided on-site.

(j) Shall not operate beyond the operating hours of the property owner/associated business entity or between 11:00 pm and 5:00 am (whichever is more restrictive),

(k) Sale of produce is permitted only in accordance with applicable State of North Carolina laws.

(l) The area used for sales or display of merchandise by the temporary concession shall be limited to 300 square feet. Such area shall be identified on the Use Permit and the Use Permit shall be valid only for the area so identified.

(m) A parking plan shall be submitted by the applicant and approved by the Zoning Administrator to ensure adequate access, circulation, capacity and safety.

**4.7.7** Fireworks displays shall be required to have an application submitted to the Zoning Administrator at least sixty (60) days in advance of the event. Applications must include proof of a qualified operator and adequate insurance, as well as all documentation required by the Union County Fire Marshall's Office. The application will also need to be submitted by the applicant to the Union County Fire Marshall's Office for their review. The Village Council will vote to approve or deny the application at a meeting of the Village Council. The Village will provide the Union County Fire Marshall's office with a letter stating that Council approved the application and the date of the Council meeting at which the application was voted upon. Any approval of an application by the Village Council shall be contingent upon the applicant receiving final approval from the Union

County Fire Marshall's Office. *(Added 10.14.2013)*

**Section 4.7A Temporary Structures and Uses Requiring a Temporary Conditional Use Permit.**

**4.7A.1** In either R-20, R-A20, R-40, R-A40, R-60 or R-80 residential districts a temporary Conditional Use Permit (CUP) may be granted by the Village Council for not more than one (1) manufactured home to be placed on a residential lot as an accessory use when conditions exist of the need to care for an immediate family member due to medical reasons. The CUP shall be granted only after all of the following findings have been confirmed to the Council through appropriate investigation and certification by the Zoning Administrator:

1. That the manufactured home is an accessory use to the principal residential use;
2. That the manufactured home will be placed on the lot on a temporary basis;
3. That there exists a medically related need for the proximate care of an immediate family member (this finding must be substantiated by a certification of need from a medical doctor and other evidence the Village Council may desire);
4. That the person(s) responsible for providing the care will live in either the principal dwelling or the manufactured home and that the person(s) needing the care shall live in the structure not occupied by the person(s) providing the care;
5. That there exists sufficient reason(s) justifying separate quarters and such reasons shall be limited to contagious disease, serious illness, or lack of adequate space within the principal dwelling;
6. That the person(s) in need of care is an immediate family member of the person(s) to be responsible for providing care;
7. That the manufactured home will have adequate access to a well and septic tank as verified by permits from the Union County Health Department or directly connected to public water and sewer systems;
8. That the manufactured home will be placed in the rear yard and will be no closer than twenty (20) feet from any property line or, if it is not feasible to locate the manufactured home in the rear yard, that the manufactured home will be located in the non-required side yard behind the building line of the principal dwelling; and
9. That the granting of the CUP will not materially endanger the public health, safety and welfare.

The following additional requirements shall be applicable:

- a) The CUP shall be valid for one (1) year after issuance or for shorter periods as specified by the Village Council, however, no such CUP shall be valid beyond thirty (30) days after any of the reasons justifying the CUP cease to exist.
- b) The CUP may be renewed prior to the expiration date with proper application to and approval by the Village Council when the hardship warranting the original permit remains and is re-certified.
- c) Such permit is granted to a particular owner on the basis of circumstances peculiar to that owner and it shall not remain in effect in the event of a change of ownership of any land structure, use, or other item covered by the CUP.
- d) When granting the CUP, the Village Council may impose reasonable conditions, restrictions, and safeguards as considered necessary to protect the public health, safety, and general welfare in accordance with the purpose of intent of this Ordinance. Violation of these conditions, restrictions, and safeguards shall be considered a violation of this ordinance.

**4.7A.2** In the event of overcrowded permanent facilities, a temporary Conditional Use Permit (CUP) may be issued by the Village Council to any school or church using at the time of the application permanent buildings, for one or more manufactured home(s) utilized as a temporary classroom(s) pending construction of additional permanent facilities. The CUP shall be issued for a period of up to one (1) year and may be renewed by the Village Council for subsequent periods of one (1) year. Any manufactured home(s) utilized as a temporary classroom(s) permitted under this subsection shall be constructed pursuant to the NC Building Code.

## **Section 4.8 Height Exemption**

The maximum height as indicated in the various districts may be exceeded, providing Council specific approval is first obtained for proposed uses as provided in the following instances:

**4.8.1** Roof Structures and the like not intended for human occupancy, such as skylights, radio transmission or television towers, stairways, water tanks, ventilating fans, elevator and air conditioning equipment or similar equipment housings, steeples, spires, belfries, cupolas, or chimneys, may exceed the maximum allowable height limits in any of the zoning districts.

**4.8.2** The height restrictions of Article 13 shall apply to telecommunication

towers.

- 4.8.3** Public Safety Stations (police, fire, rescue) may be 45 feet in height. *(Added 05.12.08)*

**Section 4.9 Accessory Uses and Structures**

Minor uses or structures which are necessary to the operation or enjoyment of a permitted principal use, and are appropriate, incidental and subordinate to any such uses, shall be permitted in all districts with certain exceptions as described herein as an accessory use, subject to the following:

- 4.9.1** Accessory uses or structures, well houses, garages and swimming pools shall be located no closer than fifteen (15) feet to any side or rear lot line. Well houses shall be allowed in any yard and shall not be subject to setback requirements. Detached garages may be located in any side or rear yard. *(Revised 02.19.2015)*
- 4.9.2** In any residential district or on any lot containing a principal residential use, no accessory use or structure shall be permitted that involves or requires any construction features which are not residential in nature or character. Accessory uses shall be located on the same lot as the principal use.
- 4.9.3** An accessory building(s) other than qualified barns or farm related structures may not exceed the height of the principal building.
- 4.9.4** An accessory building(s) other than qualified barns or farm related structures shall not exceed one half of the gross floor area of the principal building.
- 4.9.5** Roofed accessory uses physically attached or connected to the principal building shall be considered a part of the principal building and shall be subject to the setback requirements for the principal building.
- 4.9.6** A swimming pool shall be considered an accessory use. A swimming pool shall only be located in the rear yard of residential properties or in the side yard of properties where the residence location has a setback of at least two hundred (200) feet. In all other situations, swimming pool locations shall be subject to specific approval of a Conditional Use Permit as provided for in Article 6.  
*(Was 4.9.1 changed to 4.9.6 on 11.12.01. No changes to wording.)*
- 4.9.7** Structures housing poultry or livestock and waste removed from any structure shall be located no closer that 150 feet from any property line

except that structures housing horses shall be located no closer than 60 feet from any property line. *(Added 10.17.05)*

- 4.9.8** Where permitted as an accessory use, horses are allowed at a maximum density of one (1) horse per 40,000 square feet of pasture area, excluding minimum lot size for house. *(Added 10.15.05)*

#### **Section 4.10 Outdoor Lighting**

The purpose of this ordinance is to improve night-time public safety, utility, and security by restricting the night-time emission of light rays. New lighting technologies have produced lights that are extremely powerful, and these lights may be improperly installed so that they create problems of excessive glare, light trespass, and higher energy use. Excessive glare can be annoying and may cause safety problems. Light trespass reduces everyone's privacy, may be detrimental to the aesthetic values of the Village, and can restrict persons from the peaceful enjoyment of their property. Higher energy use results in increased costs for everyone. This ordinance is intended to reduce the problems caused by excessive lighting, or by improperly designed and installed outdoor lighting.

**4.10.1 Regulations:** All public and private outdoor lighting installed in the Village of Wesley Chapel shall be in conformance with the requirements established by this ordinance. The provisions of this ordinance are intended to supplement other applicable codes and requirements. Compliance with all applicable provisions of building, electrical, and other codes must be observed. In the event of a conflict between the requirements of this code and other requirements, the stringent requirement shall apply.

#### **4.10.2 Control of glare and light trespass:**

- A. Any luminaire with a lamp or lamps rated at a total of MORE than 1800 lumens, and all flood or spot luminaries with a lamp rated at a total or MORE than 900 lumens, shall not emit any direct light above a horizontal plane through the lowest direct-light-emitting part of the luminaire.
- B. Any luminaire with a lamp or lamps rated at a total of MORE than 1800 lumens, and all flood or spot luminaries with a lamp or lamps rated at a total or MORE than 900 lumens, shall be mounted at a height equal to or less than the value  $3 + (D/3)$ , where D is the distance in feet to the nearest property boundary. The maximum height of the luminaire may not exceed thirty (30) feet. *(Revised maximum height on 03.31.03)*

- C. Unless specified otherwise in this ordinance, seventy-five (75) percent of all outdoor light fixtures used for commercial, advertising, or industrial use, whether installed before, on, or after the effective date of this ordinance, shall be turned off between 11:00 PM and sunrise except when used for:
  - 1. Commercial and industrial use (such as sales, assembly, and repair areas) where business is conducted after 11:00 PM, but only while the business is open to the public. Illuminated advertising signs on the premises of a business while it is open to the public.
  - 2. Illuminated advertising signs on the premises of a business while it is open to the public.

#### **4.10.3 Exceptions**

- A. Any luminaire with a lamp or lamps rated at a total of 1800 lumens or LESS, and all flood or spot luminaries with a lamp or lamps rated at 900 lumens or LESS, may be used without restriction to light distribution or mounting height, except that if any spot or flood luminaire rated 900 lumens or LESS is aimed, directed, or focused such as to cause direct light from the luminaire to be directed toward residential buildings on adjacent or nearby land, or to create glare perceptible to persons operating motor vehicles on public ways, the luminaire shall be redirected or its light output controlled as necessary to eliminate such conditions.
- B. Luminaires used for public-roadway illumination may be installed at a maximum height of 25 feet and may be positioned at that height up to the edge of any bordering property.
- C. All temporary emergency lighting needed by the Police or Fire Departments or other emergency services, as well as all vehicular luminaires, shall be exempt from the requirements of this article.
- D. All hazard warning luminaries required by Federal regulatory agencies are exempt from the requirements of this article, except that all luminaries must be shown to be as close as possible to the federally required minimum lumen output requirement for the specific task.
- E. Motion detector security lights which are normally “off” and which are activated for less than 5 minutes occasionally when motion is detected are exempt from this article.

- F. The design for an area may suggest the use of parking lot lighting, area lighting and roadway fixtures of a particular “period” or upscale architectural style such as the “nostalgic lantern”, as either alternatives or supplements to the lighting described above. These decorative post-mounted fixtures are generally classified as “non-cutoff” by the IESNA and are acceptable. The maximum lumens generated from each fixture shall not exceed 9,500 initial lamp lumens per fixture and each fixture must be equipped with a solid top to reduce the amount of light going up into the sky. *(New Exception to 4.10.3 F. on 04.08.02)*
- G. In the case of flags, statues or other top-of-pole mounted objects, including neighborhood entrances, which cannot be illuminated with down-lighting, upward lighting may be used only in the form of two narrow-cone spotlight which confines the illumination to the object of interest.
- H. This ordinance does not regulate outdoor signs. Such regulations can be found in Article 8 of this Zoning Ordinance.

#### **4.10.4 Prohibitions**

- A. The operation of searchlights, lasers, or other high-intensity beams is prohibited.
- B. The use of flashing, rotating, or pulsating devices is prohibited.

#### **4.10.5 Recreational Facilities**

- A. Any light source permitted by this ordinance may be used for lighting of outdoor recreational facilities (public or private), such as, but not limited to, football fields, soccer fields, baseball and softball fields, tennis courts, or show areas, provided all the following conditions are met:
  - 1. All fixtures used for event lighting shall comply with the requirements of Section 4.10.2 (A & B), or be provided with sharp cut-off capability, so as to minimize up light, spill light, and glare.

*(Revision of page begins with 4.10.6 on 04.08.02 No change to ordinance.)*

#### **4.10.6 Temporary Outdoor Lighting**

- A. Any temporary outdoor lighting that conforms to the requirements of this Ordinance shall be allowed. Nonconforming temporary outdoor lighting may be permitted by the Village Council after considering: (1) the public and/or

private benefits that will result from the temporary lighting; (2) any annoyance or safety problems that may result from the use of the temporary lighting; and (3) the duration of the temporary nonconforming lighting. The applicant shall submit a detailed description of the proposed temporary nonconforming lighting to the Village Council, who shall consider the request at the next regularly scheduled meeting. Prior notice of the meeting shall be provided to the applicant. The Village Council shall render its decision on the temporary lighting request and notify the applicant in writing within two weeks. A failure of the Village Council to act on a request shall constitute a denial of the request.

#### **4.10.7 Application to Pre-Existing Luminaires**

- A. All luminaries, in non-commercial areas, lawfully in place prior to the date of this ordinance, are deemed “pre-existing luminaries”. However, any luminaire that replaces a pre-existing luminaire, or any pre-existing luminaire that is moved, must meet the standards of this ordinance subject to the above sentence. All pre-existing luminaries that are in B1, B2 or LI zoned areas may remain for a period of 3 years after the date of adoption of this Zoning Ordinance, and must thereafter comply with provisions of Section 4.10 above.

#### **4.10.8 Authorization for Installation of Public Area and Roadway Lighting**

- A. Installation of any new public area and roadway lighting fixtures other than for traffic control shall be specifically approved at a Village of Wesley Chapel Council Meeting.

### **Section 4.11 Vibration**

No equipment in any district shall operate in such a fashion that any inherent or recurring ground vibrations can be felt or detected at the property line without the use of instruments.

### **Section 4.12 Noise**

Every use of land must be conducted in such a manner that regularly recurring noises are not disturbing or loud and do not cause injury, detriment, or nuisance to any person of ordinary sensitivities, as measured at the property line.

**Section 4.13 Restoring Unsafe Buildings**

Nothing in these regulations shall prevent the strengthening or restoring to a safe condition of any part of any building or structure declared unsafe by lawful order.

**Section 4.14 Uses Not Expressly Permitted or Conditional**

No building, sign, or land shall be used, erected or occupied and no building or structure shall be erected, expanded or moved after the Effective Date of this Ordinance except in conformity to this Ordinance. This Ordinance specifies uses which are allowed in each zone. Uses designated as “permitted uses” are allowed in a zone as a matter of right. Uses designated as “conditional uses” and/or “non-conforming uses” are allowed only after individual, specific approval by the Village Council pursuant to Article 6 of the Ordinance. Certain uses pre-existing the adoption of this Ordinance are allowed to remain as nonconforming uses pursuant to Article 7 of this Ordinance. Unless a use is allowed as a “permitted”, “conditional” or “nonconforming” use, then such use is expressly prohibited in that zone by this Ordinance, and such use shall constitute a violation of this Ordinance. Certain definitions set out in Section 2.2 of this Ordinance regarding unallowable uses are not mentioned in any other sections of the Ordinance. The purpose of these definitions is to make clear that any such defined use is not permitted under this Ordinance.

**Section 4.15 Construction Begun Prior to Adoption of Ordinance**

Nothing in this Ordinance shall be deemed to require any change in the plans, construction or designed use of any building for which a permit has been issued or upon which actual construction was lawfully begun prior to the Effective Date of this Ordinance, and upon which building actual construction has been diligently carried on, and provided further, that such building shall be completed within one (1) year from the date of passage of this Ordinance.