

**Village of Wesley Chapel, NC
ORDINANCE NUMBER 2015-06**

**AN ORDINANCE CONCERNING GENERAL PENALTIES
THE ORDINANCES OF THE VILLAGE OF WESLEY CHAPEL**

WHEREAS, Article 8 of Chapter 160A of the North Carolina General Statutes, N.C.G.S. 160A-174, et seq., delegates to municipalities the authority to exercise the general police power; and

WHEREAS, the Village Council of the Village of Wesley Chapel finds that it is in the public interest enact an Ordinance to provide more specificity as to the methods for enforcing ordinances; and

WHEREAS, the Village Council of the Village of Wesley Chapel, after due notice, conducted a public hearing on the 9th day of March 2015 upon the question of enacting an Ordinance in this respect.

THEREFORE, BE IT ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF WESLEY CHAPEL, NORTH CAROLINA:

PART ONE. An Ordinance of the Village of Wesley Chapel entitled “General Penalties; Enforcement of Ordinances; Continuing Violations”, is hereby enacted to read as follows:

GENERAL PENALTIES; ENFORCEMENT OF ORDINANCES; CONTINUING VIOLATIONS

(A) Administration.

- (1) Unless a greater amount is specified in an Ordinance, an act constituting a violation of the provisions of any ordinance or a failure to comply with any of its requirements shall subject the offender to a civil penalty of \$50.00, which includes administrative fees. Each day any single violation continues shall be a separate violation. Unless expressly stated otherwise in an ordinance, a violation shall not constitute a misdemeanor pursuant to N.C.G.S. 14-4. If the offender fails to correct a violation by the prescribed deadline after being notified of said violation, the penalty may be recovered in a civil action in the nature of a debt.
- (2) In addition to the civil penalties set out above, any provision of any Village ordinance may be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction. In such case, the General Court of Justice shall have jurisdiction to issue such orders as may be appropriate, and it shall not be a defense to the application of the Village for equitable relief that there is an adequate remedy at law.

- (3) In addition to the civil penalties set out above, any provision of any Village ordinance that makes unlawful a condition existing upon or use made of real property may be enforced by injunction and order of abatement by the General Court of Justice. When a violation of such a provision occurs, the Village may apply to the appropriate division of the General Court of Justice for a mandatory or prohibitory injunction and/or order of abatement commanding the defendant to correct the unlawful condition upon or cease the unlawful use of the property. The action shall be governed in all respects by the laws and rules governing civil proceedings, including the Rules of Civil Procedure in general and Rule 65 in particular.
- (4) An order of abatement may direct that buildings or other structures on the property be closed, demolished or removed; that fixtures, furniture or other movable property be removed from buildings on the property; that grass and weeds be cut; that abandoned or junked vehicles be removed; that improvements or repairs be made; or that any other action be taken that is necessary to bring the property into compliance with the applicable Village ordinance. If the defendant fails or refuses to comply with an injunction or with an order of abatement within the time allowed by the court, he may be cited for contempt, and the Village may execute the order of abatement. The Village shall have a lien on the property for the cost of executing an order of abatement in the nature of a mechanic's and materialman's lien. The defendant may secure cancellation of an order of abatement by paying all costs of the proceedings and posting a bond for compliance with the order. The bond shall be given with sureties approved by the Clerk of Superior Court in an amount approved by the judge before whom the matter is heard and shall be conditioned on the defendant's full compliance with the terms of the order of abatement within a time fixed by the judicial order. Cancellation of an order of abatement shall not suspend or cancel an injunction issued in conjunction therewith.
- (5) The provisions of any Village ordinance may be enforced by one, all, or a combination of the remedies authorized and prescribed by this Ordinance.

(B) Procedures.

- (1) This Ordinance sets forth the procedures to be followed in enforcing the provisions of Village Ordinances. They shall be utilized unless an individual ordinance has different procedures, in which event the procedures of the individual ordinance shall be followed.
- (2) Unless otherwise provided by a specific provision of any Village ordinance, upon determination of a violation of any section of a Village ordinance, the

enforcement official of the Village of Wesley Chapel shall cause a warning citation to be issued to the violator. Such warning citation shall be issued either in person or posted in the United States mail service by first class mail addressed to the last known address of the violator as contained in the records of the County. Such warning citation shall set out the nature of the violation, the section violated, the date of the violation, and shall contain an order to immediately cease the violation. If the violation is in the nature of an infraction for which an order of abatement would be appropriate in a civil proceeding, a reasonable period of time must be stated in which the violation must be abated. The warning citation shall specify that a second citation shall incur a civil penalty, together with costs, and attorney fees.

- (3) Except for appeals from a warning citation for a violation of the zoning ordinance, an appeal from a warning citation shall be taken within ten (10) days from the date of said warning citation by filing with the Village Clerk and with the Board of Adjustment, a notice of appeal which shall specify the grounds upon which the appeal is based. Except in any case where the ordinance violated, which is the subject of the warning citation, specifically grants to the Board of Adjustment other powers in considering appeals and such appeal is applied for, the Board of Adjustment in considering appeals of warning citations shall have power only in the manner of administrative review and interpretation where it is alleged that the enforcement official has made an error in the application of an ordinance, in the factual situation as it relates to the application of an ordinance or both.
- (4) Where the enforcement official of the Village determines that the period of time stated in the original warning citation is not sufficient for abatement based upon the work required or consent agreement, the enforcement official may amend the warning citation to provide for additional time.
- (5) Upon failure of the violator to obey the warning citation, a civil citation may be issued by the enforcement official, either served directly on the violator, his duly designated agent, or registered agent if a corporation, either in person or posted in the United States mail service by first class mail addressed to the last known address of the violator as contained in the records of the County or obtained from the violator at the time of issuance of the warning citation. The violator shall be deemed to have been served upon the mailing of said citation. The citation shall direct the violator to appear in person at the Village Hall to pay the citation within (15) fifteen days of the date of the citation, or alternatively to pay the citation by mail. The violation for which the citation is issued must have been corrected by the time the citation is paid, otherwise further citations shall be issued. Citations may be issued for each day the offense continues until the prohibited activity is ceased or abated.

- (6) If the violator fails to respond to a citation within fifteen days of its issuance, and pay the penalty prescribed therein, the Village of Wesley Chapel may institute a civil action in the nature of debt in the appropriate division of the North Carolina General Court of Justice for the collection of the penalty, costs, attorney fees, and such other relief as permitted by law.”

PART TWO. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent of such conflict.

PART THREE. If any section, subsection, paragraph, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed severable and such holding shall not affect the validity of the remaining portions hereof.

PART FOUR. The enactment of this ordinance shall in no way affect the running of any amortization provisions or enforcement actions, or otherwise cure any existing violations.

PART FIVE. This ordinance shall be in full force and effect from and after the date of its adoption.

Adopted this __9th__ day of _March_, 2015.

Brad Horvath, Mayor

ATTEST:

Approved as to form:

Cheryl Bennett, Village Clerk

George Sistrunk, Village Attorney