

## **VILLAGE OF WESLEY CHAPEL**

### **Town Hall Usage Policy**

#### **Overview**

The Village of Wesley Chapel was proud to open its first building, our Town Hall, on February 1<sup>st</sup>, 2014. As such, we would like to keep the facility in good condition so it can serve the community for many years. We also recognize that there are times when organizations would like to avail themselves of the use of this beautiful, taxpayer funded facility.

The intent of this policy is to set basic guidelines for non-Village government usage of the Wesley Chapel Town Hall. This policy is by no means inclusive of every situation and request, but simply sets basic parameters and a process of requesting usage of the Town Hall facility. Exceptions will be considered based upon merit and availability of the facility.

#### **Restrictions**

- Standing scheduled Village Board and Committee meetings take precedence in all situations. These can be identified on the Village website either on the monthly calendar and/ or under the Regular Meetings listing.
- Requests will be considered first from organizations that are comprised of Village residents. If no reservation requests have been made, non resident requests will be considered on a case by case basis.
- There is no food or drink permitted in the Meeting Chambers with the exception of bottled water.
- There is no alcohol or tobacco permitted.
- No tape, tacks, nails, glue, pins, etc. are to be put in or on the walls, windows, floors, doors, light fixtures, heating vents, etc.
- Village furnishings are to be left as found. Any necessity for clean-up, etc. will incur an additional charge.
- There are no meetings that will be allowed for building/ construction/ assemblage of any crafts or projects.

#### **Meeting Room Details**

- Seats approximately 90.
- Two tables are available but not typically set-up in the Meeting Chambers.
- Audio visual capabilities exist, including microphones, speakers, projector and projector screen and laptop connection.
- Attached conference room that seats up to 12 can also be utilized.
- There are men's and women's restrooms in the facility.
- The night of your meeting/ event, please use the main doors off the large parking lot to enter.
- Interior light switches for the foyer and Chambers exist near the entrance to those areas; please remember to shut them off when exiting the building (restroom lights are on sensors).

- Exterior doors can be set to stay unlocked via hex key located in the Chamber's foyer under the light switch; remember to lock the exterior doors before exiting after your meeting.
- Please place your key in the box on the table near the security panel before entering your passcode into the alarm panel, arming the system. All exterior doors must be closed to successfully arm the system.
- Once the system has been armed, please exit the building within 20 seconds. If you remembered that you forgot something (before you exit) please re-enter your security code in the alarm panel. Then repeat the above steps when you are ready to leave.

### **Meeting Reservation Process**

- Check Village website for meeting space conflicts on Calendar at [www.wesleychapelinc.com](http://www.wesleychapelinc.com).
- Contact Village Clerk or Assistant at 704-839-0182 X2001 during business hours, 9am to 5pm, Monday thru Thursday (no Friday office hours).
- Provide date/ time reservation request at least two weeks in advance, along with name of the organization and contact information (name/ phone number). Please include any additional time for set-up in your request (early arrival).
- Staff will call you back within 2 business days of your request with confirmation if your date/ time is available for your event.
- Once your reservation time is confirmed, payment in full is required to hold your reservation and must be received within 72 hours. If check is not received within 72 hours you will be notified your event has been removed from the calendar and the date released.
- Cost for rental of the meeting space is \$100 per event for up to 4 hours with an additional refundable key deposit of \$25. Additional time may be reserved for \$25 per hour. This is to cover Village expenses (lights, heat, cleaning, etc.). Requests for waiver of the rental costs from non-profit or community groups will be considered by the Village Council at their regularly scheduled monthly meetings (2<sup>nd</sup> Monday of each month).
- Please either come by the Town Hall during business hours to drop off payment or mail a check payable to the Village of Wesley Chapel in advance of your meeting.
- The meeting facility is expected to be left in the same condition as found. If that is not done, it may affect future meeting reservations and also incur a charge for cleaning, repairs, etc. depending on the severity of the impact on the facility.
- Reservations are limited to no more than once per quarter per organization at the present time to ensure we can accommodate multiple groups.

Cancellations must be in writing and must be made no later than 10 days prior to your meeting. If you do not cancel your meeting, the remainder of your payment is due at that time. If cancellation is necessary, within the cutoff time frame, your deposit will not be refunded but you may apply the deposit to a future available date.

**PLEASE RESPECT OUR FACILITY AS IT REPRESENTS THE COMMUNITY OF WESLEY CHAPEL AND WE WANT TO ENSURE THE COMMUNITY CAN CONTINUE TO USE IT.**

**RESOLUTION TO ADOPT THE  
CABARRUS STANLY UNION REGIONAL HAZARD MITIGATION PLAN**

WHEREAS, Village of Wesley Chapel is vulnerable to an array of natural hazards that can cause loss of life and damages to public and private property; and

WHEREAS, Village of Wesley Chapel desires to seek ways to mitigate the impact of such hazard risks; and

WHEREAS, the development and implementation of a hazard mitigation plan can result in actions that reduce the long-term risk to life and property from natural hazards; and

WHEREAS, it is the intent of the Village of Wesley Chapel Council to protect its citizens and property from the effects of natural hazards by preparing and maintaining a local hazard mitigation plan; and

WHEREAS, it is also the intent of the Village of Wesley Chapel Council to fulfill its obligations under Chapter 166A of the North Carolina General Statutes, the North Carolina Emergency Management Act, and Section 322 of the Federal Disaster Mitigation Act of 2000 in order to remain eligible to receive state and federal assistance in the event of a declared disaster affecting Village of Wesley Chapel; and

WHEREAS, Village of Wesley Chapel, in coordination with Cabarrus County, Concord, Harrisburg, Kannapolis, Midland, Mount Pleasant, Stanly County, Albemarle, Badin, Locust, Misenheimer, New London, Norwood, Oakboro, Red Cross, Richfield, Stanfield, Union County, Fairview, Hemby Bridge, Indian Trail, Lake Park, Marshville, Marvin, Mineral Springs, Monroe, Stalling, Unionville, Waxhaw Weddington, Wesley Chapel, and Wingate, has prepared a multi-jurisdictional hazard mitigation plan with input from the appropriate local and state officials; and

WHEREAS, the North Carolina Division of Emergency Management and the Federal Emergency Management Agency have reviewed the Cabarrus Stanly Union Regional Hazard Mitigation Plan for legislative compliance and have approved the plan pending the completion of local adoption procedures.

NOW, THEREFORE, BE IT RESOLVED that the Council of Wesley Chapel hereby:

1. Adopts the Cabarrus Stanly Union Regional Hazard Mitigation Plan; and
2. Agrees to take such other official action as may be reasonably necessary to carry out the proposed actions of the Plan.

Adopted on March 9, 2015.



Brad S. Horvath, Mayor  
Village of Wesley Chapel

ATTEST:

  
Cheryl Bennett, Clerk

**Village of Wesley Chapel, NC**

**NON- SOLICITATION ORDINANCE 2015-01**

**Section 1      Statement of Purpose and Definitions**

(a) *Statement of Purpose:* It is the intent of the Council to recognize and protect the privacy interests of homeowners by preventing uninvited entry onto residential private property for the purpose of commercial solicitation. The Council further intends to prevent crime and prohibit deception, fraud, and misrepresentation by limiting such door-to-door solicitation for commercial purposes.

(b) *Definitions:* For purposes of this Article, the following definitions shall apply:

- (1) "Clerk" shall mean the Clerk of the Village of Wesley Chapel, located at 6490 Weddington Road, Wesley Chapel, NC 28104.
- (2) "Council" shall mean the Village of Wesley Chapel Council.
- (3) "Commercial Purpose" shall mean to solicit, beg, or otherwise ask for any monetary contribution, fare, fee, rate, charge, or other consideration that will directly or indirectly benefit any business, entity, or individual whose main purpose is to generate a profit.
- (4) "Not for Profit" shall mean a group or cause organized for purposes other than generating a profit.
- (5) "Privilege License" shall mean a license to any person, business or organization according to the provisions of the Village of Wesley Chapel Ordinance 2008-08 or any subsequent revision thereof.

**Section 2      Prohibited Acts**

(a) *Prohibited acts:* It shall be unlawful for any person to solicit, beg or otherwise ask for money or other things of value for any Commercial Purpose on residential private property where a no soliciting sign or other notice discouraging solicitation is visible from the front door, drive or walkway, except for mailing or depositing marketing or other communicative materials in a mailbox on the private property.

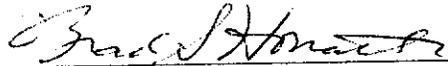
(b) *Exceptions:* The prohibitions of this section are not intended to apply and shall not apply to:

- (1) Any person, business or organization holding a valid Privilege License issued by the Village of Wesley Chapel; or
- (2) Any person, business or organization that holds a current license issued by the state of North Carolina pursuant to N.C.G.S. § 131F-5 and is engaging in a Not for Profit activity.

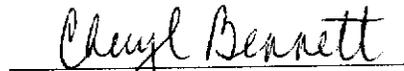
Section 2      **Violations of Ordinance**

- (1) A violation of this ordinance by any person, business or organization (“Party”) will be considered a misdemeanor punishable by a fine, as determined by the Mayor, of not less than one hundred dollars (\$100.00) per incident payable to the Clerk.
- (2) On or before the thirtieth (30<sup>th</sup>) day after the date of notice of the fine, the Party may request, in writing to the Clerk, an opportunity to address the Mayor and Council at a Council Meeting where such Party may provide evidence and arguments in support of their position why the Party should not be subject to the fine. The Clerk will provide notice to the Party of the date of the Council meeting when the Party has been placed on the agenda to appear for the purpose of presenting evidence and arguments. The Party’s obligation to pay a fine will be decided by majority vote of the Council with any tie vote being decided by the Mayor. All costs for the appearance before the Council shall be incurred by the Party.
- (3) After a final decision by the Council, the Party may continue to appeal the matter pursuant to the North Carolina General Statutes.

Adopted this 9<sup>th</sup> day of March, 2015.

  
\_\_\_\_\_  
Mayor Brad S. Horvath

Attest:

  
\_\_\_\_\_  
Cheryl Bennett, Clerk

**Village of Wesley Chapel, NC  
ORDINANCE NUMBER 2015-02**

**AN ORDINANCE CONCERNING MINIMUM HOUSING STANDARDS  
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**, Part 6 of Article 19 of the North Carolina General Statutes, N.C.G.S. 160A-441, et seq., authorizes municipalities to provide for the repair, closing or demolition of dwellings, buildings or structures used or intended for human habitation;

**WHEREAS**, N.C.G.S. 160A-193 authorizes municipalities to summarily remedy, abate or remove public health nuisances; and

**WHEREAS**, the Village of Wesley Chapel Village Council finds that it is in the public interest to enact an ordinance to provide more specificity as to the requirements for regulating dwellings, buildings or structures used or intended for human habitation; and

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

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

**PART ONE.** That an Ordinance of the Village of Wesley Chapel entitled "Minimum Housing Standards", is hereby enacted and written in its entirety to read as follows:

**"MINIMUM HOUSING STANDARDS**

**Section 1. Findings; Purpose; Authority.**

Pursuant to Section 160A-441, of the General Statutes of North Carolina, it is hereby found and declared that there exist in the Town dwellings which are unfit for human habitation due to dilapidation, defects increasing the hazards of fire, accidents and other calamities, lack of ventilation, light and sanitary facilities, and due to other conditions rendering such dwellings unsafe and unsanitary, and dangerous and detrimental to the health, safety and morals, and otherwise inimical to the welfare of the residents of the Village of Wesley Chapel.

In order to protect the health, safety and welfare of the residents of the Village, as authorized by Part 6 of Article 19, Chapter 160A of the General Statutes of North Carolina, it is the purpose of this Ordinance to establish minimum standards of fitness for the initial and continued occupancy of all buildings used for human habitation, as expressly authorized by Section 160A-444 of the General Statutes of North Carolina.

In addition, it is hereby found and declared, under the authority of North Carolina General Statutes 160A-174, that there exist in the Village dwellings which, although not meeting the classification as unfit for human habitation, fail to fully comply with all the minimum standards for housing fitness as established herein and therefore have present one or more conditions which

are inimical to the public health, safety and general welfare. Such conditions, if not corrected can lead to deterioration and dilapidation of dwellings which render them unfit for human habitation.

## **Section 2. Scope.**

- (a) This Ordinance is hereby declared to be remedial and shall be construed to secure the beneficial interests and purposes thereof which are public safety, health and general welfare through structural strength, stability, sanitation, adequate light and ventilation and safety to life and property from fire and other hazards incident to the construction, alteration, repair, removal, demolition, use and occupancy of dwellings, apartment houses, rooming houses or buildings, structures or premises used or intended for use as such.
- (b) The provisions of this Ordinance shall apply to all existing housing and to all housing hereafter constructed within the Village's Incorporated Jurisdiction. Portable, mobile or demountable buildings or structures, including trailers, manufactured homes and mobile homes when used or intended for use for housing within the jurisdiction, shall be subject to the applicable provisions of this Ordinance. This Ordinance establishes minimum requirements for the initial and continued occupancy of all buildings used for human habitation and does not replace or modify requirements otherwise established for the construction, repair, alteration or use of buildings, equipment or facilities except as provided in this Ordinance.
- (c) The provisions of this Ordinance shall also apply to abandoned structures which are found by the Village Council to be a health or safety hazard as a result of the attraction of insects or rodents, conditions creating a fire hazard, dangerous conditions constituting a threat to children or frequent use by vagrants as living quarters in the absence of sanitary conditions.

## **Section 3. Definitions.**

The following definitions shall apply in the interpretation and enforcement of this Ordinance:

Abandoned Structure. Any structure, whether designed and intended for residential or other uses, which has been vacant or not in active use, regardless of purpose or reason, for the past two-year period and which is determined by the Housing Inspector to be unfit for human habitation or occupancy based upon the standards as set forth in this Ordinance.

Basement. A portion of a building which is located partly underground, having access to light and air from windows located above the level of the adjoining ground.

Cellar. A portion of a building located partly or wholly underground having inadequate access to light and air from windows located partly or wholly below the level of the adjoining ground.

Deteriorated Dwelling. A dwelling that is unfit for human habitation and can be repaired, altered or improved to comply with all of the minimum standards established by this Ordinance, *at a cost not in excess of fifty percent of its value*, as determined by finding of the Housing Inspector.

Dilapidated Dwelling. A dwelling that is unfit for human habitation and cannot be repaired, altered or improved to comply with all of the minimum standards established by this Ordinance, *at a cost not in excess of fifty percent of its value*, as determined by finding of the Housing Inspector.

Dwelling. Any building, structure, manufactured home or mobile home, or part thereof, used and occupied for human habitation or intended to be so used, and includes any accessory buildings and structures and appurtenances belonging thereto or usually enjoyed therewith, except that it does not include any manufactured home or mobile home, which is used solely for a seasonal vacation purpose.

Dwelling Unit. Any room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking and eating.

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

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

Habitable room. A room or enclosed floor space used or intended to be used for living, sleeping, cooking or eating purposes, excluding bathrooms, water closet compartments, laundries, heater rooms, foyers or communicating corridors, closets and storage spaces.

Housing Inspector. The person appointed by the Village Council to carry out the administration and enforcement of this Ordinance.

Infestation. The presence, within or around a dwelling, of any insects, rodents or other pests in such number as to constitute a menace to the health, safety or welfare of the occupants or to the public.

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

Multiple Dwelling. Any dwelling containing more than two dwelling units.

Occupant. Any person over one year of age living, sleeping, cooking or eating in, or having actual possession of, a dwelling unit or rooming unit.

Operator. Any person who has charge, care or control of a building or part thereof, in which dwelling units or rooming units are let.

Owner. The holder of the title in fee simple and every mortgagee of record.

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

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

Rooming House. Any dwelling, or that part of any dwelling containing one or more rooming units, in which space is let by the owner or operator to three or more persons who are not husband and wife, son or daughter, mother or father or sister or brother of, the owner or operator.

Rooming Unit. Any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes.

Rubbish. Combustible and noncombustible waste materials except garbage and ashes, and the term shall include, but not be limited to, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass crockery and dust.

Supplied. Paid for, furnished or provided by, or under the control of, the owner or operator.

Whenever the words "dwelling", "dwelling unit", "rooming house", "rooming unit" or "premises" are used in this Ordinance, they shall be construed as though they were followed by the words "or any part thereof".

#### **Section 4. Office of Housing Inspector Created; Powers and Duties.**

For the purposes of administering and enforcing the provisions of this Ordinance, the office of Housing Inspector is hereby created. The Housing Inspector shall be appointed by the Village Council, and shall have such powers as may be necessary or convenient to carry out and effectuate the purposes and provisions of this Ordinance, including, without limiting the generality of the foregoing, in addition to others herein granted, the following powers:

(a) **Investigations**

To investigate the dwelling and building conditions in the Village in order to determine which dwellings therein are unfit for human habitation and dangerous, being guided in such examination of dwellings and buildings by the requirements set forth in this Ordinance.

(b) **Oaths, witnesses, etc.**

To administer oaths and affirmations and to examine witnesses and receive evidence.

(c) **Right of Entry**

To enter upon and within premises and dwellings for the purpose of making examinations and investigations; provided, that such entries shall be made in such a manner as to cause the least possible inconvenience to the persons in possession. If entry upon the premises for purposes of investigation is necessary, such entry shall be made pursuant to a duly issued administrative search warrant in accordance with G.S. 15-27.2 or with permission of the owner, the owner's agent, a tenant, or other person legally in possession of the premises

(d) **Warrants; Citations, etc.**

To swear criminal warrants, issue civil citations and to take such other actions as may be necessary to carry out the enforcement procedures of this Ordinance.

(e) Delegation of functions, etc.

To delegate any of his functions and powers under this Ordinance to such officers and agents as he may designate.

### **Section 5. Inspections.**

For the purpose of carrying out the intent of this Ordinance, the Housing Inspector, upon proper identification, is hereby authorized to enter, examine and survey at all reasonable times all dwellings, dwelling units, rooming houses, rooming units and premises, including abandoned structures. The owners or occupants of every dwelling, dwelling unit, rooming unit, or rooming house, or the person in charge thereof, shall give the Housing Inspector free access to such dwelling, dwelling unit, rooming house or rooming unit, and its premises, at all reasonable times for the purposes of such inspection, examination and survey. Every occupant of a dwelling or dwelling unit shall give the owner thereof, or his agent or employee, access to any part of such dwelling or dwelling unit, and its premises, at all reasonable times for the purpose of making such repairs or alterations as are necessary to effect compliance with the provisions of this Ordinance or with any lawful order issued pursuant to the provisions of this Ordinance.

### **Section 6. Preliminary Investigations; Notices; Hearings.**

Whenever a petition is filed with the Housing Inspector by a public authority or by at least five (5) residents of the Village charging that any dwelling is unfit for human habitation or whenever it appears to the Housing Inspector (on his own motion) that any dwelling is unfit for human habitation, the Housing Inspector shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner and parties in interest in such dwellings a complaint stating the charges in that respect and containing a notice that a hearing will be held before the Housing Inspector (or his designated agent) at a place within the Village therein fixed not less than 10 days nor more than 30 days after the serving of the complaint; that the owner and parties in interest shall be given the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint; and that the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the Housing Inspector.

Upon the issuance of a complaint and notice of hearing pursuant to this Section, the Inspector may cause the filing of a notice of lis pendens, with a copy of the complaint and notice of hearing attached thereto, in the Office of the Clerk of Superior Court of the county in which the subject property exists, to be indexed and cross-indexed in accordance with the indexing procedures of the North Carolina General Statutes. The Inspector shall cause a copy of the notice of lis pendens to be served upon the owners and parties in interest in the dwelling at the time of filing in accordance with Section 160A-445 of the North Carolina General Statutes, as applicable. Upon compliance with the requirements of any order issued based upon such complaint and hearing, the Inspector shall direct the Clerk of Superior Court to cancel the notice of lis pendens.

### **Section 7. Dwelling Unfit for Human Habitation.**

The Housing Inspector shall determine that a dwelling is unfit for human habitation if he finds that any one of the following conditions exist in such dwelling:

- (a) Interior walls or vertical studs which seriously list, lean or buckle to such an extent as to render the dwelling unsafe.
- (b) Supporting member or members which show thirty-three (33) percent or more damage or deterioration, or non-supporting, enclosing or outside walls or covering which shows fifty (50) percent or more of damage or deterioration.
- (c) Floors or roofs which have improperly distributed loads, which are overloaded or which have insufficient strength to be reasonably safe for the purpose used.
- (d) Such damage by fire, wind or other causes as to render the dwelling unsafe.
- (e) Dilapidation, decay, unsanitary conditions or disrepair which is dangerous to the health, safety or welfare of the occupants or other people in the Village.
- (f) Inadequate facilities for egress in case of fire or panic.
- (g) Defects significantly increasing the hazards of fire, accident or other calamities.
- (h) Lack of adequate ventilation, light, heating or sanitary facilities to such extent as to endanger the health, safety or general welfare of the occupants or other residents of the Town.
- (i) Lack of proper electrical, heating or plumbing facilities required by this Ordinance which constitutes a definite health or safety hazard.
- (j) Lack of connection to a potable water supply and/or to the public sewer or other approved sewage disposal system, the lack of either one of which renders a dwelling unfit for human habitation. For the purposes of this standard, a dwelling is not connected to a potable water supply if the water supply has been "cut off" because of nonpayment of the water bill or otherwise or if the system for any reason is not receiving a flow of potable water to the tap.

In addition to the ten (10) conditions stated above, any one of which renders a dwelling unfit for human habitation, the Housing Inspector shall determine that a dwelling is unfit for human habitation if he finds that a dwelling fails to fully comply with seven (7) or more of the following enumerated standards of dwelling fitness:

## **STRUCTURAL STANDARDS**

### Structural Integrity

- (1) Walls, partitions, supporting members, sills, joists, rafters or other structural members shall not list, lean or buckle, shall not be rotted, deteriorated or damaged, and shall not have holes or cracks which might admit rodents.

### Supports

- (2) Floors or roofs shall have adequate supporting members and strength to be reasonably safe for the purpose used.

### Foundations

- (3) Foundations, foundation walls, piers or other foundation supports shall not be deteriorated or damaged.

### Steps

- (4) Steps, stairs, landings, porches or other parts or appurtenances shall be maintained in such condition that they will not fail or collapse.

### Egress

- (5) Adequate facilities for egress in case of fire or panic shall be provided.

### Interior Materials

- (6) Interior walls and ceilings of all rooms, closets and hallways shall be furnished of suitable materials which will, by use of reasonable household methods, promote sanitation and cleanliness, and shall be maintained in such a manner so as to enable the occupants to maintain reasonable privacy between various spaces.

### Weatherization

- (7) The roof, flashings, exterior walls, basement walls, floors and all doors and windows exposed to the weather shall be constructed and maintained so as to be weather and watertight.

### Chimneys

- (8) There shall be no chimneys or parts thereof which are defective, deteriorated or in danger of falling, or in such condition or location as to constitute a fire hazard.

### Floors

- (9) There shall be no use of the ground for floors, or wood floors on the ground.

## **PLUMBING STANDARDS**

### Facilities

- (10) Each dwelling unit shall contain not less than a kitchen sink, lavatory, tub or shower, water closet, and an adequate supply of both cold water and hot water. All water shall be supplied through an approved pipe distribution system connected to a potable water supply. For the purposes of this standard, a dwelling is not connected to a potable water supply if the water supply has been "cut off" because of non-payment of the water bill or otherwise or if the system for any reason is not receiving a flow of potable water to the tap.

## Maintenance

- (11) All plumbing fixtures shall meet the standards of the Plumbing Code and shall be maintained in a state of good repair and in good working order.

## Accessible

- (12) All required plumbing fixtures shall be located within the dwelling and be accessible to the occupants of the same. The water closet and tub or shower shall be located in a room or rooms affording privacy to the user.

## **HEATING STANDARDS**

### Generally

- (13) Every dwelling shall have facilities for providing heat in accordance with either paragraph (a) or (b) below. Such facilities shall be maintained in a state of good repair and good working order.
- (a) Central and electrical heating systems. Every central or electric heating system shall be of sufficient capacity so as to heat all habitable rooms, bathrooms and water closet compartments in every dwelling to which it is connected with a minimum temperature of sixty-eight (68) degrees Fahrenheit measured at a point three (3) feet above the floor during average winter conditions.
- (b) Other heating facilities. Where a central or electric heating system is not provided, each dwelling shall be provided with sufficient electrical receptacles, fireplaces, chimneys, flues or gas vents whereby heating appliances may be connected so as to heat all habitable rooms, bathrooms and water closet compartments with a minimum temperature of sixty-eight (68) degrees Fahrenheit measured three (3) feet above the floor during average winter conditions.

## **ELECTRICAL STANDARDS**

### Wiring

- (14) Every dwelling shall be wired for electric lights and convenience receptacles. Every habitable room shall contain at least two floor or wall type electrical convenience receptacles, connected in such manner as determined by the Electrical Code. There shall be installed in every bathroom, water closet room, laundry room and furnace room at least one supplied ceiling or wall type electric light fixture. In the event wall or ceiling light fixtures are not provided in any habitable room, then each such habitable room shall contain at least three floor or wall type electric convenience receptacles.

### Hall Lights

- (15) Every public hall and stairway in every multiple dwelling shall be adequately lighted by electric lights at all times when natural light is not sufficient.

## Maintenance

- (16) All fixtures, receptacles, equipment and wiring shall be maintained in a state of good repair, safe, capable of being used, and installed in accordance with the Electrical Code.

## **VENTILATION STANDARDS**

### Generally

- (17) Every habitable room shall have at least one window or skylight facing directly to the outdoors. The minimum total window area, measured between stops, for every habitable room shall be ten percent of the floor area of such room. Whenever walls or other portions of structures face a window of any such room and such light obstructions are located less than five feet from the window and extend to a level above that of the ceiling of the room, such a window shall not be deemed to face directly to the outdoors and shall not be included as contributing to the required minimum total window area. Whenever the only window in a room is a skylight type window in the top of such a room, the total window area of such skylight shall equal at least fifteen percent of the total floor area of such room.

### Habitable rooms

- (18) Every habitable room shall have at least one window or skylight which can easily be opened, or such other device as will adequately ventilate the room. The total openable window area in every habitable room, shall be equal to at least forty-five percent of the minimum window area size or minimum skylight type window size as required, or shall have other approved equivalent ventilation.

### Bathroom and water closet room

- (19) Every bathroom equipped with more than one water closet compartment shall comply with the light and ventilation requirements for habitable rooms.

## **SPACE, USE AND LOCATION STANDARDS**

### Room sizes

- (20) Every dwelling unit shall contain at least the minimum room size in each habitable room as required by the Residential Building Code. (Floor area shall be calculated on the basis of habitable room area. However, closet area and wall area within the dwelling may count for not more than ten percent of the required habitable floor area. The floor area of any part of any room where the ceiling height is less than four and one-half feet shall not be considered as a part of the floor area in computing the total area of the room to determine maximum permissible occupancy.) Every dwelling unit shall contain at least one hundred fifty (150) square feet of habitable floor area for the first occupant, at least one hundred (100) square feet of additional habitable area for each of the next three (3) occupants, and at least seventy-five (75) square feet of additional habitable floor area for each additional occupant. In every dwelling unit and in every rooming unit, every room occupied for sleeping purposes by one occupant shall contain at least seventy (70) square feet of floor area, and every room occupied for sleeping purposes by more than one

occupant shall contain at least fifty (50) square feet of floor area for each occupant twelve (12) years of age and over, and at least thirty-five (35) square feet of floor area for each occupant under twelve (12) years of age.

### Ceiling Height

- (21) At least one-half of the floor area of every habitable room shall have a ceiling height of not less than seven feet and six inches.

### Cellar

- (22) No cellar shall be used for living purposes unless:
- (a) the floor and walls are substantially watertight;
  - (b) the total window area, total openable window area and ceiling height are equal to those required for a habitable room;
  - (c) the required minimum window area of every habitable room is entirely above the grade adjoining such window area, except where the windows face a stairwell, window well or access way.

## **SAFE AND SANITARY MAINTENANCE STANDARDS**

### Exterior foundation, walls and roofs

- (23) Every foundation wall, exterior wall and exterior roof shall be substantially weather tight and rodent proof; shall be kept in sound condition and good repair; shall be capable of affording privacy; shall be safe to use and capable of supporting the load which normal use may cause to be placed thereon. Every exterior wall shall be protected with paint or other protective covering to prevent the entrance or penetration of moisture or the weather.

### Interior floors, walls and ceilings

- (24) Every floor, interior wall and ceiling shall be substantially rodent proof; shall be kept in sound condition and good repair; and shall be safe to use and capable of supporting the load which normal use may cause to be placed thereon.

### Windows and doors

- (25) Every window, exterior door, basement or cellar door and hatchway shall be substantially weather tight, water tight and rodent proof; and shall be kept in sound working condition and good repair.

### Stairs, porches and appurtenances

- (26) Every inside and outside stair, porch and any appurtenances thereto shall be safe to use and capable of supporting the load that normal use may cause to be placed thereon; and shall be kept in sound condition and good repair.

### Bathroom and kitchen floors

- (27) Every bathroom and kitchen floor surface and water closet compartment floor surface shall be constructed and maintained so as to be reasonably impervious to water and so as to permit such floor to be easily kept in sound condition and good repair.

### Supplied facilities

- (28) Every supplied facility, piece of equipment or utility which is required under this Ordinance shall be so constructed or installed that it will function safely and effectively and shall be maintained in satisfactory working condition.

### Drainage

- (29) Every yard shall be properly graded so as to obtain thorough drainage and so as to prevent the accumulation of stagnant water.

## **INSECT, RODENT AND INFESTATION CONTROL STANDARDS**

### Screens

- (30) For protection against mosquitoes, flies and other insects every dwelling shall have:
- (a) Supplied and installed screens on every door opening leading directly from the dwelling to outdoor space. Except, that sliding doors, doors with self closing devices, doors on mobile homes with self closing devices and doors that open into rooms of living spaces that are artificially ventilated or air conditioned are exempt from this provision.
  - (b) Supplied and installed screens on every window or other device with an opening to outdoor space, except that this requirement shall not apply for any room or rooms of a dwelling that are ventilated year round with an operable and installed heating and air conditioning system.

### Rodent control

- (31) Every basement or cellar window used or intended to be used for ventilation, and every other opening to a basement which might provide an entry for rodents, shall be supplied with screens installed or such other approved device as will effectively prevent their entrance.

### Infestation

- (32) Every dwelling shall be maintained in a manner to be free of any infestations of insects, rodents or other pests. Every occupant of a dwelling containing a single dwelling unit shall be responsible for the extermination of any insects, rodents or other pests therein or on the premises; and every occupant of a dwelling unit in a dwelling containing more than one dwelling unit shall be responsible for such extermination whenever his dwelling unit is the only one infested. Whenever infestation exists in two or more of the dwelling

units in any dwelling or in the shared or public parts of any dwelling containing two or more dwelling units, extermination shall be the responsibility of the owner.

#### Rubbish storage and disposal

- (33) Every dwelling shall be supplied with approved containers and covers for storage of rubbish as may be required by Village Ordinances, and the owner, operator or agent in control of such dwelling or dwelling unit shall be responsible for the removal of rubbish.

#### Garbage storage and disposal

- (34) Every dwelling shall be supplied with an approved garbage disposal facility, which may be an adequate mechanical garbage disposal unit (mechanical sink grinder) in each dwelling unit or an incinerator unit, to be approved by the Inspector, in the structure for the use of the occupants of each dwelling unit, or an approved outside garbage container as may be required by Village Ordinances.

#### Smoke Detector Systems

- (35) Every dwelling unit shall be provided with an approved listed smoke detector installed in accordance with the manufacturer's recommendations and listing. When activated, the detector shall provide an audible alarm. The detector shall be tested in accordance with and meet the requirements of UL 217, Single and Multiple Station Smoke Detectors.

### **ROOMING HOUSE STANDARDS**

All of the provisions of this Ordinance, and all of the minimum standards and requirements of this Ordinance, shall be applicable to rooming houses, and to every person who operates a rooming house or who occupies or lets to another for occupancy any rooming unit in any rooming house, except as provided in the following Subsections:

#### Water closet, hand lavatory and bath facilities

- (36) At least one water closet, lavatory basin and bathtub or shower, properly connected to an approved water and sewer system and in good working condition, shall be supplied for each four rooms within a rooming house wherever such facilities are shared. All such facilities shall be located within the residence building served, shall be directly accessible from a common hall or passageway and shall not be more than one story removed from any of the persons sharing such facilities. Every lavatory basin and bathtub or shower shall be supplied with hot and cold water at all times. Such required facilities shall not be located in a cellar.

#### Minimum floor area for sleeping purposes

- (37) Every room occupied for sleeping purposes by one occupant shall contain at least seventy (70) square feet of floor area, and every room occupied for sleeping purposes by more than one occupant shall contain at least fifty (50) square feet of floor area for each occupant twelve (12) years of age and over and at least thirty-five (35) square feet of floor area for each occupant under twelve (12) years of age.

### Sanitary conditions

- (38) The operator of every rooming house shall be responsible for the sanitary maintenance of all walls, floors and ceilings, and for the sanitary maintenance of every other part of the rooming house; and shall be further responsible for the sanitary maintenance of the entire premises where the entire structure or building within which the rooming house is contained, is leased or occupied by the operator.

### Sanitary facilities

- (39) Every water closet, flush urinal, lavatory basin and bathtub or shower required by Subsection (36) of this Section shall be located within the rooming house and within a room or rooms which afford privacy and are separate from the habitable rooms, and which are accessible from a common hall and without going outside the rooming house or through any other room therein.

[Note: Full compliance with a standard means that if any part of the stated standard is not complied with by a particular dwelling then that dwelling has failed to fully comply with the enumerated standard. For example, in regard to standard #10, if all standards are met in a dwelling except that a supply of hot water is not provided then the dwelling fails to fully comply with standard #10.]

### **Section 8. Dwellings Not in Compliance But Not Unfit for Human Habitation.**

In any case where the Housing Inspector determines that a dwelling fails to fully comply with one or more but less than seven (7) of the above enumerated standards of dwelling fitness, such dwelling shall not be found to be unfit for human habitation and shall not be subject to the procedures and remedies as provided for in this Ordinance for dwellings unfit for human habitation. Each such failure or noncompliance, however, shall constitute a violation of the terms of this Ordinance and shall subject the violator to the penalties and enforcement procedures of the General Penalties; Enforcement of Ordinances; Continuing Violations Ordinance. In making the determination as described in this Section, the Housing Inspector shall not be required to make notice and hold the hearing as called for in Section 6, but the Housing Inspector may do so if the determination of the severity and classification of dwelling fitness is not clear to the Housing Inspector upon preliminary investigation.

### **Section 9. Procedure After Hearing; Order.**

If, after notice and hearing, the Housing Inspector determines that the dwelling under consideration is unfit for human habitation in accordance with the standards set forth above, he shall state in writing his findings of fact in support of that determination and shall issue and cause to be served upon the owner thereof an order:

- (a) If the repair, alteration or improvement of the dwelling can be made at a cost of less than fifty (50) percent of the value of the dwelling, requiring the owner, within the time specified, to repair, alter or improve the dwelling in order to render it fit for human habitation or to vacate and close the dwelling as a human habitation, based upon the Housing Inspector's standards for closing dwellings;

- (b) If the repair, alteration or improvement of the dwelling cannot be made at a cost of less than fifty (50) percent of the value of the dwelling, requiring the owner, within the time specified in the order, to repair, alter or improve the dwelling in order to render it fit for human habitation or to remove or demolish such dwelling.

If, after notice and hearing the Housing Inspector determines that the dwelling under consideration is not unfit for human habitation but is not in full compliance with one or more standards of dwelling fitness as set forth above, he may proceed with the enforcement procedures of the General Penalties; Enforcement of Ordinances; Continuing Violations Ordinance.

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

#### **Section 10. Failure to Comply with Order.**

- (a) If the owner fails to comply with an order to repair, alter or improve or to vacate and close the dwelling, the Housing Inspector may:
  - (1) Cause the dwelling to be repaired, altered or improved or to be vacated and closed.
  - (2) Cause to be posted on the main entrance of any such dwelling, a placard with the following words: "This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful." Occupation of a building so posted shall constitute a violation of this Ordinance.
- (b) If the owner fails to comply with an order to repair, alter or improve or to remove or demolish the dwelling, the Housing Inspector may:
  - (1) Cause such dwelling to be vacated and removed or demolished.
  - (2) Cause to be posted on the main entrance of any such dwelling, a placard with the following words: "This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful." Occupation of a building so posted shall constitute a violation of this Ordinance.
- (c) The duties of the Housing Inspector set forth in Subsections (a) and (b) shall not be exercised until the Village Council shall have by Ordinance ordered the Housing Inspector to proceed to effectuate the purpose of this Ordinance with respect to the

particular property or properties which the Housing Inspector shall have found to be unfit for human habitation and which property or properties shall be described in the Ordinance. No such Ordinance shall be adopted to require demolition of a dwelling until the owner has first been given a reasonable opportunity to bring it into conformity with the Housing Standards. For the purposes of this subsection, a period of ninety (90) days following the date of the Housing Inspector's order shall constitute a reasonable opportunity. The Ordinance shall be recorded in the Office of the Register of Deeds in the county wherein the property or properties are located and shall be indexed in the name of the property owner in the grantor index.

- (d) The amount of the cost of repairs, alterations or improvements, or vacating and closing, or removal or demolition by the Housing Inspector shall be a lien against the real property upon which the cost was incurred, which lien shall be filed, have the same priority, and be collected as the lien for special assessment provided in Article 10 of Chapter 160A of the General Statutes of North Carolina. If the dwelling is removed or demolished by the Housing Inspector, he shall sell the materials of the dwelling, and any personal property, fixture or appurtenances found in or attached to the dwelling, and shall credit the proceeds of the sale against the cost of the removal or demolition and any balance remaining shall be deposited in the Superior Court by the Housing Inspector, shall be secured in a manner directed by the Court, and shall be disbursed by the Court to the persons found to be entitled thereto by final order of the decree of the Court.
- (e) If any occupant fails to comply with an order to vacate a dwelling, the Housing Inspector may file a civil action in the name of the Village to remove such occupant. The action to vacate the dwelling shall be in the nature of summary ejectment and shall be commenced by filing a complaint naming as parties-defendant any persons occupying such dwelling. The Clerk of Superior Court shall issue a summons requiring the defendant to appear before a magistrate at a certain time, date and place not to exceed 10 days from the issuance of the summons to answer the complaint. The summons and complaint shall be served as provided in G.S. 42-29. The summons shall be returned according to its tenor, and if on its return it appears to have been duly served, and if at the hearing the Housing Inspector produces the certified copy of an Ordinance adopted by the Village Council pursuant to Subsection (c) authorizing the Housing Inspector to proceed to vacate the occupied dwelling, the magistrate shall enter judgment ordering that the premises be vacated and that all persons be removed. The judgement ordering that the dwelling be vacated shall be enforced in the same manner as the judgment for summary ejectment entered under G.S. 42-30. An appeal from any judgment entered hereunder by the magistrate may be taken as provided in G.S. 7A-228, and the execution of such judgement may be stayed as provided in G.S. 7A-227. An action to remove an occupant of a dwelling who is a tenant of the owner may not be in the nature of a summary ejectment proceeding pursuant to this paragraph unless such occupant was served with notice at least 30 days before the filing of the summary ejectment proceeding that the Village Council has ordered the Housing Inspector to proceed to exercise his duties under Subsections (a), (b) and (c) of this Section to vacate and close or remove and demolish the dwelling.

#### **Section 11. Service of Complaints and Orders.**

Complaints or Orders issued by the Housing Inspector shall be served upon persons either personally or by registered or certified mail. When service is made by registered or certified

mail, a copy of the complaint or order may also be sent by regular mail. Service shall be deemed sufficient if the registered or certified mail is unclaimed or refused, but the regular mail is not returned by the post office within ten (10) days after the mailing. If regular mail is used, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected.

If the identities of any owners or the whereabouts of persons are unknown and cannot be ascertained by the inspector in the exercise of reasonable diligence, or, if the owners are known but have refused to accept service by registered or certified mail, and the inspector makes an affidavit to that effect, then the serving of the complaint or order upon the owners or other persons may be made by publication in a newspaper having general circulation in the Village at least not later than the time at which personal service would be required under the provisions of this Ordinance. When service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises thereby affected.

## **Section 12. Appeals.**

- (a) The Board of Adjustment is hereby appointed as the Housing Appeals Board to which appeals from any decision or order of the Housing Inspector may be taken. Except where this Ordinance provides for different rules or procedures, the Board of Adjustment acting as the Housing Appeals Board shall follow its rules of procedure, which may be amended to provide specifically for this function.
- (b) An appeal from any decision or order of the Housing Inspector may be taken by any person aggrieved thereby or by any officer, board or commission of the Town. Any appeal from the Housing Inspector shall be taken within ten days from the rendering of the decision or service of the order by filing with the Housing Inspector and with the Village Clerk a notice of appeal which shall specify the grounds upon which the appeal is based. Upon the filing of any notice of appeal, the Housing Inspector shall forthwith transmit to the Board all the papers constituting the record upon which the decision appealed from was made. When an appeal is from a decision of the Housing Inspector refusing to allow the person aggrieved thereby to do any such act, his decision shall remain in force until modified or reversed. When any appeal is from a decision of the Housing Inspector requiring the person aggrieved to do any act, the appeal shall have the effect of suspending the requirement until the hearing by the Board, unless the Housing Inspector certifies to the Board after the notice of appeal is filed with him, that because of facts stated in the certificate (a copy of which shall be furnished the appellant), a suspension of his requirement would cause imminent peril to life or property. In that case the requirement shall not be suspended except by a restraining order, which may be granted for due cause shown upon not less than one day's written notice to the Housing Inspector, by the Board, or by a court of record upon petition made pursuant to Subsection (e) of this Section.
- (c) The Board of Adjustment shall fix a reasonable time for hearing appeals, shall give due notice to the parties, and shall render its decision within a reasonable time. Any party may appear in person or by agent or attorney. The Board may reverse or affirm, wholly or partly, or may modify the decision or order appealed from, and may make any decision and order that in its opinion ought to be made in the matter, and to that end it shall have all the powers of the Housing Inspector, but simple majority vote of the members of the Board shall be necessary to reverse or modify any decision or order of the Housing Inspector. The Board shall have power also in passing upon appeals, when practical

difficulties or unnecessary hardships would result from carrying out the strict letter of the Ordinance, to adapt the application of the Ordinance to the necessities of the case to the end that the spirit of the Ordinance shall be observed, public safety and welfare secured, and substantial justice done.

- (d) Every decision of the Board shall be subject to review by proceedings in the nature of certiorari instituted within 15 days of the decision of the Board, but not otherwise.
- (e) Any person aggrieved by an order issued by the Housing Inspector or a decision rendered by the Board may petition the Superior Court for an injunction, restraining the Housing Inspector from carrying out the order or decision and the Court may, upon such petition, issue a temporary injunction restraining the Housing Inspector pending a final disposition of the cause. The petition shall be filed within 30 days after issuance of the order or rendering of the decision. Hearings shall be had by the Court on a petition within 20 days, and shall be given preference over other matters on the Court's calendar. The Court shall hear and determine the issues raised and shall enter such final order or decree as law and justice may require. It shall not be necessary to file bond in any amount before obtaining a temporary injunction under this Subsection.

### **Section 13. Alternative Remedies.**

Nothing in this Ordinance nor any of its provisions shall be construed to impair or limit in any way the power of the Village to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise nor shall enforcement of one remedy provided herein prevent the enforcement of any other remedy or remedies provided herein or in other Chapters or laws. In addition to the remedies provided for herein, any violation of the terms of this Ordinance shall subject the violator to the penalties and remedies, as set forth in the General Penalties; Enforcement of Ordinances; Continuing Violations Ordinance of the Village of Wesley Chapel.

No dwelling shall be hereafter erected, altered, moved, or changed in occupancy without a Certificate of Compliance. In any case where the Housing Inspector, after notice and hearing as required herein, finds that a dwelling or dwelling unit is unfit for human habitation, he shall withhold issuance of a Certificate of Compliance for such dwelling or dwelling unit: until such time that he determines that it is fit for human habitation. In addition, in any case where the Housing Inspector, after preliminary investigation as provided for herein, concludes, based upon that investigation, that a dwelling or dwelling unit is unfit for human habitation and believes that the occupancy of such dwelling or dwelling unit could cause imminent peril to life or property from fire or other hazards, he shall withhold issuance of a Certificate of Compliance for such dwelling or dwelling unit until such time that he determines that it is fit for human habitation.

If any dwelling is erected, constructed, altered, repaired, converted, maintained, or used in violation of this Ordinance or of any valid order or decision of the Housing Inspector or Board made pursuant to any ordinance adopted under authority of this Ordinance, the Housing Inspector may institute any appropriate action or proceedings to prevent the unlawful erection, construction, reconstruction, alteration or occupancy, to restrain, correct or abate the violation, to prevent the occupancy of the dwellings, or to prevent any illegal act, conduct or use in or about the premises of the dwelling.

**Section 14. Conflict with Other Provisions.**

In the event any provision, standard or requirement of this Ordinance is found to be in conflict with any provision of any other ordinance or code of the Village, the provision which establishes the higher standard or more stringent requirement for the promotion and protection of the health and safety of the residents of the Village's jurisdiction shall prevail. The North Carolina Building Code, current edition, shall serve as the standard for all alterations, repairs, additions, removals, demolitions and other acts of building made or required pursuant to this Ordinance.

**Section 15. Violations.**

In addition to the conditions, acts or failures to act that constitute violations specified in this Ordinance above, it shall be unlawful for the owner of any dwelling or dwelling unit to fail, neglect or refuse to repair, alter or improve the same, or to vacate and close or vacate and remove or demolish the same, upon order of the Inspector duly made and served as herein provided, within the time specified in such order. It shall be unlawful for the owner of any dwelling, with respect to which an order has been issued pursuant to Section 9, to occupy or permit the occupancy of the same after the time prescribed in such order for its repair, alteration or improvement or its vacation and closing, or vacation and removal or demolition.

**Section 16. Validity.**

If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The Village Council hereby declares that it would have passed this Ordinance and each section, subsection, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid."

**PART TWO.** That all ordinances in conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict.

**PART THREE.** That this Ordinance shall become effective upon its adoption by the Village Council of the Village of Wesley Chapel, North Carolina.

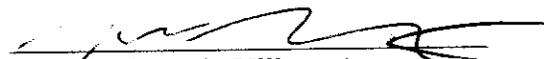
Adopted this   9th   day of   March  , 2015.

  
\_\_\_\_\_  
Brad Horvath, Mayor

ATTEST:

Approved as to form:

  
\_\_\_\_\_  
Cheryl Bennett, Village Clerk

  
\_\_\_\_\_  
George Sistrunk, Village Attorney

**Village of Wesley Chapel, NC  
ORDINANCE NUMBER 2015-03**

**AN ORDINANCE DECLARING PUBLIC NUISANCES, UNLAWFUL CONDITIONS  
ON PRIVATE PROPERTY 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**, Article 8 of Chapter 160A of the North Carolina General Statutes, N.C.G.S. 160A-193, authorizes municipalities to summarily remedy, abate or remove public health nuisances; and

**WHEREAS**, the Village Council of the Village of Wesley Chapel finds that it is in the public interest to enact an Ordinance to provide more specificity as to the requirements for regulating Public Nuisances; 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.** That an Ordinance of the Village of Wesley Chapel entitled "Public Nuisance Conditions, Private Property: is hereby enacted and written in its entirety to read as follows:

**"PUBLIC NUISANCE CONDITIONS, PRIVATE PROPERTY**

**Section 1. Administration.**

For the purpose of this Ordinance, the term "nuisance" shall mean or refer to any condition or any use of property or any act or omission affecting the condition or use of property which threatens or is likely to threaten the safety of the public; adversely affects the general health, happiness, security or welfare of others; or, is detrimental to the rights of others to the full use of their own property and their own comfort, happiness and emotional stability because of decreased property values and the unsightliness and decreased livability of neighborhoods.

**Section 2. Declaration of Public Nuisance**

The following enumerated and described conditions, or any combination thereof, are hereby found, deemed, and declared to constitute a detriment, danger and hazard to the health, safety, morals and general welfare of the inhabitants of the Village. They are hereby found, deemed and declared to be public nuisances wherever the conditions may exist within the corporate limits as

now or hereafter established. The creation, maintenance or failure to abate any nuisances is hereby declared unlawful:

1. Any weeds or other vegetation having an overall height of more than eighteen (18) inches above the surrounding ground provided that the following shall not be considered to be a part of this condition: trees and ornamental shrubs; cultured plants; natural vegetation on undeveloped property that is not a threat to the character of surrounding properties; and flowers and growing and producing vegetable plants. It shall be the duty of every person occupying, owning or having control of property abutting on a street or highway that utilizes a portion of the unused street or highway right-of-way as a yard or any other use to maintain said right-of-way in the same character and manner as the abutting use.
2. Any accumulation of trash, garbage, food waste and other trash which is the result of the absence of, or overflowing of, or improperly closed trash or garbage containers, that attracts or is likely to attract mice and rats, flies and mosquitoes or other pests.
3. An open or unsecured storage or collection place for chemicals, acids, oils, gasoline, flammable or combustible materials or flammable or combustible liquids, poisonous materials or other similar harmful or dangerous substances, gasses or vapors.
4. An open place, collection, storage place or concentration of combustible items such as mattresses, boxes, paper, automobile tires and tubes, garbage, trash, refuse, brush, old clothes, rags, or any other combustible materials collection.
5. An open storage place for old worn out, broken or discarded machinery, car parts, junk, tire rims, furniture, stoves, refrigerators, appliances, cans and containers, household goods, plumbing or electrical fixtures, old rusty metal, fencing materials or other similar materials.
6. Any accumulation of garbage, rubbish, trash, or junk causing or threatening to cause a fire hazard, or causing or threatening to cause the accumulation of stagnant water, or causing or threatening to cause the inhabitation therein of rats, mice, snakes, mosquitoes, or vermin prejudicial to the public health.
7. Any accumulation of animal or vegetable matter that is offensive by virtue of odors or vapors or by the inhabitation therein of rats, mice, snakes, or vermin of any kind which is or may be dangerous or prejudicial to the public health.
8. The open storage of any discarded ice box, furniture, refrigerator, stove, glass, building materials, building rubbish or similar items. The use of carports, open porches, decks, open garages and other outdoor areas that are visible from the street as a storage or collection place for boxes, appliances, furniture (not typical

outdoor or yard furniture), tools, equipment, junk, garbage, old worn out broken or discarded machinery and equipment, cans, containers, household goods or other similar condition that increase the likelihood of a fire; may conceal dangerous conditions; may be a breeding place or habitat for mice, rats or other pests; or, create an unattractive condition or visually blighted property

9. A collection place for lumber, bricks, blocks, nails, building hardware, roofing materials, scaffolding, masonry materials, electrical supplies or materials, plumbing supplies or materials, heating and air conditioning supplies or materials or any other type of old or unusable building supplies (especially those with nails, staples or sharp objects and edges) unless such conditions are temporary in nature and caused by a current construction project in progress pursuant to a lawfully issued building permit.
10. Any building or other structure which has been burned, partially burned or otherwise partially destroyed and which is unsightly or hazardous to the safety of any person, is a continuing fire hazard or which is structurally unsound to the extent that the Code Administrator or his designee can reasonably determine that there is a likelihood of personal or property injury to any person or property entering the premises.
11. The placement, storage or use of upholstered sofas, couches, chairs or other indoor type furniture, appliances, seats removed from motor vehicles or other furniture not intended for outdoor use by the manufacturer, use on any open porch, carport, stoop, deck, veranda, terrace, patio or other outdoor area that is visible from nearby streets and sidewalks.
12. A collection place, pool or pond of stagnant or foul water or persistent dampness caused by overflowing septic tanks, manmade dams, open ditches, overflowing pipes, foundation trenches or other impoundments of any kind.
13. Barns or farm animal pens, pastures or enclosures for farm animals which are not kept sanitary and clean or otherwise become a collection place for animal waste and which because of the conditions associated therewith attract rats, mice, flies or other pests or emit foul odors that can be detected or noticed on adjacent properties or are otherwise not kept in a sanitary condition.
14. Dog lots, pens, pet enclosures of all kinds, outdoor areas where dogs or other pets are chained or kept or areas where dogs and cats are permitted to roam which become a collection place for dog, cat or pet waste and excrement and which attract flies or other pests, emit foul odors which can be detected or noticed on adjacent property or are not kept in a sanitary condition.

### **Section 3. Complaint; Investigation of Public Nuisance**

1. When any condition in violation of this Ordinance is found to exist, the Code Administrator or such persons as may be designated by the Village Council shall give notice to the owner of the premises to abate or remove such conditions within ten (10) days. Such notice shall be in writing, shall include a description of the premises sufficient for identification and shall set forth the violation and state that, if the violation is not corrected within ten (10) days, the Village may proceed to correct the same as authorized by this section. Service of such notice shall be by any one of the following methods.

(a) By delivery to any owner personally or by leaving the notice at the usual place of abode of the owner with a person who is over the age of sixteen (16) years and a member of the family of the owner.

(b) By depositing the notice in the United States Post Office addressed to the owner at his last known address with regular mail postage prepaid thereon.

(c) By posting and keeping posted, for ten (10) days, a copy of the notice, in placard form, in a conspicuous place on the premises on which the violation exists, when notice cannot be served by method (a) and (b).

2. The Village may notify a chronic violator of the Village's public nuisance ordinance that, if the violator's property is found to be in violation of this ordinance, the Village shall, without further notice in the calendar year in which notice is given, take action to remedy the violation. The expense of such action shall become a lien upon the property and shall be collected as unpaid taxes. The notice shall be sent by registered or certified mail. When service is attempted by registered or certified mail, a copy of the notice may also be sent by regular mail. Service shall be deemed sufficient if the registered or certified mail is unclaimed or refused, but the regular mail is not returned by the post office within 10 days after the mailing. If service by regular mail is used, a copy of the notice shall be posted in a conspicuous place on the premises affected. A chronic violator is a person who owns property whereupon, in the previous calendar year, the Village gave notice of violation at least three times under any provision of the public nuisance ordinance.

### **Section 4. Abatement Procedure.**

If the owner of any property fails to comply with a notice given pursuant to this ordinance, within ten (10) days after the service of such notice, he shall be subject to prosecution for violation of this ordinance in accordance with law and each day that such failure continues shall be a separate offense. In addition, the Village may have the condition described in the notice abated, removed or otherwise corrected and all expenses incurred thereby shall be chargeable to and paid by the owner of the property and shall be collected as taxes and levies are collected. All such expenses shall constitute a lien against the property on which the work was done.

**Section 5. Procedure Is Alternative**

The procedure set forth in this Ordinance shall be in addition to any other remedies that may now or hereafter exist under law for the abatement of public nuisances. In addition to the remedies provided for herein, any violation of the terms of this Ordinance shall subject the violator to the penalties and remedies as set forth in the General Penalty Ordinance of the Village of Wesley Chapel.”

**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.

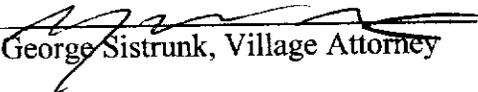
Adopted this 9th day of March, 2015.

  
\_\_\_\_\_  
Brad Horvath, Mayor

ATTEST:

  
\_\_\_\_\_  
Cheryl Bennett, Village Clerk

Approved as to form:

  
\_\_\_\_\_  
George Sistrunk, Village Attorney

**Village of Wesley Chapel, NC  
ORDINANCE NUMBER 2015-04**

**AN ORDINANCE AFFECTING THE REGULATION OF  
ABANDONED, NUISANCE AND JUNKED VEHICLES  
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 Sheriff's power; and

**WHEREAS**, Article 15 of Chapter 160A of the North Carolina General Statutes, N.C.G.S. 160A-303, et seq., authorizes municipalities to regulate, remove and dispose of Abandoned and Junked Vehicles;

**WHEREAS**, N.C.G.S. 160A-193 authorizes municipalities to summarily remedy, abate or remove public health nuisances; and

**WHEREAS**, the Village Council of the Village of Wesley Chapel finds that it is in the public interest to enact an Ordinance to provide more specificity as to the requirements for regulating Abandoned, Junked and Nuisance Vehicles; and

**WHEREAS**, the Village Council of the Village of Wesley Chapel, after due notice, conducted a public hearing on the 9<sup>th</sup> 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.** That an Ordinance of the Village of Wesley Chapel, entitled "Abandoned, Junked and Nuisance Vehicles" is hereby enacted to read as follows:

**"ABANDONED, JUNKED AND NUISANCE VEHICLES**

**Section 1. Administration.**

The Sheriff's Department and the Code Administrator of the Village shall be responsible for the administration and enforcement of this Ordinance. The Sheriff's Department shall be responsible for administering the removal and disposition of vehicles determined to be "abandoned" on the public streets and highways within the Village, and on property owned by the Village. The Code Administrator shall be responsible for administering the removal and disposal of "abandoned", "nuisance" and "junked" motor vehicles located on private property. The Village may, on an annual basis, contract with private tow truck operators or towing businesses to remove, store, and dispose of abandoned vehicles, nuisance vehicles, and junked motor vehicles in compliance with this Ordinance and applicable State laws. Nothing in this Ordinance shall be construed to limit the legal authority or powers of officers of the Sheriff's Department and Fire Department in enforcing other laws or in otherwise carrying out their duties.

**State law reference—Village authority for removal and disposal of junked and abandoned motor vehicles, G.S. 160A-303 as amended. Village authority for regulation of abandonment of junked motor vehicles, G.S. 160A-303.2 as amended.**

## Section 2. Definitions.

For the purpose of this ordinance, certain words and terms are defined as herein indicated:

(a) Abandoned vehicle: As authorized and defined in G.S. 160A-303, an abandoned vehicle is one that:

- (1) Is left upon a public street or highway in violation of a law or ordinance prohibiting parking; or
- (2) Is left upon a public street or highway for longer than seven (7) days; or
- (3) Is left upon property owned or operated by the Village for longer than twenty-four (24) hours; or
- (4) Is left upon private property without the consent of the owner, occupant, or lessee thereof for longer than two (2) hours.

(b) Authorized Official: The supervisory employee of the Sheriff's Department or the Village Code Administrator, respectively, designated to order the removal of vehicles under the provisions of this Ordinance.

(c) Motor vehicle or vehicle: All machines designed or intended to travel over land or water by self-propulsion or while attached to any self-propelled vehicle.

(d) Junked motor vehicle: As authorized and defined in G.S. 160A-303.2, the term junked motor vehicle means a vehicle that does not display a current license plate lawfully upon that vehicle and that:

- (1) Is partially dismantled or wrecked; or
- (2) Cannot be self-propelled or move in the manner in which it originally was intended to move; or
- (3) Is more than five (5) years old and appears to be worth less than five hundred dollars (\$500.00).

(e) Nuisance vehicle: A vehicle on public or private property that is determined and declared to be a health or safety hazard, a public nuisance, and unlawful, including a vehicle found to be:

- (1) A breeding ground or harbor for mosquitoes, other insects, rats or other pests; or
- (2) A point of heavy growth of weeds or other noxious vegetation which exceeds eight (8) inches in height; or
- (3) In a condition allowing the collection of pools or ponds of water; or
- (4) A concentration of quantities of gasoline, oil, or other flammable or explosive materials as evidenced by odor; or
- (5) An area of confinement which cannot be operated from the inside, such as, but not limited to, trunks or hoods; or
- (6) So situated or located that there is a danger of it falling or turning over; or
- (7) A collection of garbage, food waste, animal waste, or any other rotten or putrescent matter of any kind; or
- (8) One which has sharp parts thereof which are jagged or contain sharp edges of

- metal or glass;
- (9) Any other vehicle specifically declared a health and safety hazard and a public nuisance by the Village Council.

**Section 3. Abandoned vehicle unlawful, removal authorized.**

- (a) It shall be unlawful for the registered owner or person entitled to possession of a vehicle to cause or allow such vehicle to be abandoned as the term is defined herein.
- (b) Upon investigation, the authorized officials of the Village may determine that a vehicle is an abandoned vehicle and order the vehicle removed.

**Section 4. Nuisance vehicle unlawful, removal authorized.**

- (a) It shall be unlawful for the registered owner or person entitled to possession of a motor vehicle, or for the owner, lessee, or occupant of the real property upon which the vehicle is located to leave or allow the vehicle to remain on the property after it has been declared a nuisance vehicle.
- (b) Upon investigation, the Village Code Administrator may determine and declare that a vehicle is a health or safety hazard and a nuisance vehicle as defined above, and order the vehicle removed.

**Section 5. Junked motor vehicle regulated, removal authorized.**

- (a) It shall be unlawful for the registered owner or person entitled to the possession of a junked motor vehicle, or for the owner, lessee, or occupant of the real property upon which a junked motor vehicle is located to leave or allow the vehicle to remain on the property after the vehicle has been ordered removed.
- (b) It shall be unlawful to have more than one junked motor vehicle, as defined herein, on the premises of private property. A single, permitted junked motor vehicle must strictly comply with the location and concealment requirements of this Ordinance.
- (c) It shall be unlawful for the owner, person entitled to the possession of a junked motor vehicle, or for the owner, lessee, or occupant of the real property upon which a junked motor vehicle is located to fail to comply with the location requirements or the concealment requirements of this Ordinance.
- (d) Subject to the provisions of subsection (e), the Village Code Administrator may order the removal of a junked motor vehicle found in violation of this Ordinance to a storage garage or area. No such vehicle shall be removed from private property without the written request of the owner, lessee, or occupant of the premises unless the Code Administrator finds in writing that the aesthetic benefits of removing the vehicle outweigh the burdens imposed on the private property owner. Such finding shall be based on a balancing of the monetary loss of the apparent owner against the corresponding gain to the public by promoting or enhancing community, neighborhood, or area appearance. The following, among other relevant factors, may be considered:

- (1) Protection of property values;
- (2) Promotion of tourism and other economic development opportunities;
- (3) Indirect protection of public health and safety;
- (4) Preservation of the character and integrity of the community; and
- (5) Promotion of the comfort, happiness and emotional stability of the area residents.

(e) Permitted concealment or enclosure of junked motor vehicles:

(1) One junked motor vehicle, in its entirety, may be located in the rear yard, as defined in the Zoning Ordinance, provided the junked motor vehicle is entirely concealed from public view from a public street and/or abutting premises by an acceptable covering for not more than sixty (60) calendar days. Junked motor vehicles kept on the premises more than sixty (60) calendar days shall be kept inside a completely enclosed building. The Code Administrator has the authority to determine whether any junked motor vehicle is adequately concealed as required by this provision. The covering must remain in good repair and must not be allowed to deteriorate.

(2) Any one or more junked motor vehicles kept for a period exceeding sixty (60) calendar days shall be kept within a completely enclosed building, as defined in the Zoning Ordinance.

**Section 6. Removal of abandoned, nuisance, or junked motor vehicles; pre-towing notice requirements.**

(a) Except as set forth in Section 7 below, an abandoned, nuisance, or junked motor vehicle which is to be removed shall be towed only after notice to the registered owner or person entitled to possession of the vehicle. In the case of a nuisance vehicle or a junked motor vehicle, if the names and addresses of the registered owner or person entitled to the possession of the vehicle, or the owner, lessee, or occupant of the real property upon which the vehicle is located can be ascertained in the exercise of reasonable diligence, the notice shall be given by first class mail. The person who mails the notice(s) shall retain a written record to show the name(s) and address to whom and to which mailed, and the date mailed. If such names and addresses cannot be ascertained or if the vehicle to be removed is an abandoned motor vehicle, notice shall be given by affixing on the windshield or some other conspicuous place on the vehicle a notice indicating that the vehicle will be removed by the Village on a specified date (no sooner than seven (7) days after the notice is affixed). The notice shall state that the vehicle will be removed by the Village on a specified date, no sooner than seven days after the notice is mailed or affixed, unless the vehicle is moved by the owner or legal possessor prior to that time.

(b) With respect to abandoned vehicles on private property, nuisance vehicles and junked vehicles to which notice is required to be given, if the registered owner or person entitled to possession does not remove the vehicle but chooses to appeal the determination that the vehicle is abandoned, a nuisance vehicle or in the case of a junked motor vehicle that the aesthetic benefits of removing the vehicle outweigh the burdens, such appeal shall be made to the Board of Adjustment in writing, heard at the next regularly scheduled meeting of the Board of Adjustment, and further proceedings to remove the vehicle shall be stayed until the appeal is heard and decided.

**Section 7. Exceptions to prior notice requirement.**

The requirement that notice be given prior to the removal of an abandoned, nuisance, or junked motor vehicle may, as determined by the authorized official, be omitted in those circumstances where there is a special need for prompt action to eliminate traffic obstructions or to otherwise maintain and protect the public safety and welfare. Such findings shall, in all cases, be entered by the authorized official in the appropriate daily records. Circumstances justifying the removal of

vehicles without prior notice include:

(a) Vehicles abandoned on the streets. For vehicles left on the public streets and highways, the Village Council hereby determines that the immediate removal of such vehicles may be warranted when they are:

- (1) Obstructing traffic.
- (2) Parked in violation of an ordinance prohibiting or restricting parking.
- (3) Parked in a no-stopping or standing zone.
- (4) Parked in loading zones.
- (5) Parked in bus zones, or
- (6) Parked in violation of temporary parking restrictions.

(b) Other abandoned or nuisance vehicles. With respect to abandoned or nuisance vehicles left on Village-owned property other than the streets or highways, and on private property, such vehicles may be removed without giving prior notice only in those circumstances where the authorized official finds a special need for prompt action to protect and maintain the public health, safety, and welfare. By way of illustration and not of limitation, such circumstances include vehicles blocking or obstructing ingress or egress to businesses and residences, vehicles parked in such location or manner as to pose a traffic hazard, and vehicles causing damage to public or private property.

#### **Section 8. Removal of vehicles; post-towing notice requirements.**

Any abandoned, nuisance, or junked motor vehicle which has been ordered removed may, as directed by the Village, be removed to a storage garage or area by a tow truck operator or towing business contracted to perform such services for the Village. Whenever such a vehicle is removed, the authorized Village official shall immediately notify the last known registered owner of the vehicle with such notice to include the following;

- (1) The description of the removed vehicle;
- (2) The location where the vehicle is stored;
- (3) The violation with which the owner is charged, if any;
- (4) The procedure the owner must follow to redeem the vehicle; and
- (5) The procedure the owner must follow to request a probable cause hearing on the removal.

The Village shall attempt to give notice to the vehicle owner by telephone; however, whether or not the owner is reached by telephone, written notice, indicating the information set forth in subsections (1) through (5) above, shall also be mailed to the registered owner's last known address, unless this notice is waived in writing by the vehicle owner or his agent.

If the vehicle is registered in North Carolina, notice shall be given within twenty-four (24) hours. If the vehicle is not registered in the State, notice shall be given to the registered owner within seventy-two (72) hours from the removal of the vehicle.

Whenever an abandoned, nuisance, or junked motor vehicle is removed, and such vehicle has no valid registration or registration plates, the authorized Village official shall make reasonable efforts, including checking the vehicle identification number to determine the last known registered owner of the vehicle and to notify him of the information set forth in subsections (1) through (5) above.

### **Section 9. Right to probable cause hearing before sale or final disposition of vehicle.**

After the removal of an abandoned vehicle, nuisance vehicle, or junked motor vehicle, the owner or any person entitled to possession is entitled to a hearing for the purpose of determining if probable cause existed for removing the vehicle. A request for hearing must be filed in writing with the county magistrate designated by the chief district court judge to receive such hearing requests. The Magistrate will set the hearing within seventy-two (72) hours of receipt of the request, and the hearing will be conducted in accordance with the provisions of G.S. 20-219.11, as amended.

### **Section 10. Redemption of vehicle during proceedings.**

At any stage in the proceedings, including before the probable cause hearing, the owner may obtain possession of the removed vehicle by paying the towing fees, including any storage charges, or by posting a bond for double the amount of such fees and charges to the tow truck operator or towing business having custody of the removed vehicle. Upon regaining possession of a vehicle, the owner or person entitled to the possession of the vehicle shall not allow or engage in further violations of this Ordinance.

### **Section 11. Sale and disposition of unclaimed vehicle.**

Any abandoned, nuisance, or junked motor vehicle which is not claimed by the owner or other party entitled to possession will be disposed of by the tow truck operator or towing business having custody of the vehicle. Disposition of such a vehicle shall be carried out in coordination with the Village and in accordance with Article 1 of Chapter 44A of the North Carolina General Statutes.

### **Section 12. Conditions on removal of vehicles from private property.**

As a general policy, the Village will not remove a vehicle from private property if the owner, occupant or lessee of such property could have the vehicle removed under applicable State law procedures. In no case will a vehicle be removed by the Village from private property without a written request of the owner, occupant or lessee, except in those cases where the vehicle is a nuisance vehicle or is a junked motor vehicle which has been ordered removed by the Village Code Administrator. The Village may require any person requesting the removal of an abandoned, nuisance, or junked motor vehicle from private property to indemnify the Village against any loss, expense or liability incurred because of the removal, storage, or sale thereof.

### **Section 13. Protection against criminal or civil liability.**

No person shall be held to answer in any civil or criminal action to any owner or other person legally entitled to the possession of an abandoned, nuisance, or junked motor vehicle, for disposing of such vehicle as provided in this Chapter.

### **Section 14. Exceptions.**

Nothing in this Ordinance shall apply to any vehicle: (1) which is located in a bona fide "automobile graveyard" or "junkyard" as defined in N.C.G.S. 136-143, in accordance with the "Junkyard Control Act", N.C.G.S. 136-141, et seq., (2) which is in an enclosed building, (3) which is on the premises of a business enterprise being operated in a lawful place and manner, or (4) which is in an appropriate storage place or depository maintained in a lawful place and manner by the Village.

**Section 15. Unlawful removal of impounded vehicle.**

It shall be unlawful for any person to remove or attempt to remove from any storage facility designated by the Village, any vehicle which has been impounded pursuant to the provision of this Ordinance unless and until all towing and impoundment fees which are due, or bond in lieu of such fees, have been paid.

**Section 16. Alternative Remedies.**

Nothing in this Ordinance, nor any of its provisions, shall be construed to impair or limit in any way the power of the Village to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise, nor shall enforcement of one remedy provided herein prevent the enforcement of any other remedy or remedies provided herein or in other ordinances or laws. In addition to the remedies provided for herein, any violation of the terms of this Ordinance shall subject the violator to the penalties and remedies, as set forth in the General Penalties; Enforcement of Ordinances; Continuing Violations Ordinance of the Village of Wesley Chapel.”

**PART TWO.** All ordinances or parts of ordinances in conflict with the provisions of 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

**Village of Wesley Chapel, NC  
ORDINANCE 2015-05**

**AN ORDINANCE CONCERNING  
NON-RESIDENTIAL BUILDING OR STRUCTURE STANDARDS  
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**, Part 6 of Article 19 of the North Carolina General Statutes, N.C.G.S. 160A-439, authorizes municipalities to provide for the repair, closing or demolition of Non-Residential buildings or structures;

**WHEREAS**, N.C.G.S. 160A-193 authorizes municipalities to summarily remedy, abate or remove public health nuisances; and

**WHEREAS**, the Village of Wesley Chapel Village Council finds that it is in the public interest to enact and establish an Ordinance to provide more specificity as to the requirements for regulating Non-Residential buildings or structures; and

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

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

**PART ONE.** That an Ordinance of the Village of Wesley Chapel entitled "Non-Residential Building and Structure Standards", is hereby enacted and written to read as follows:

**"NON-RESIDENTIAL BUILDING OR STRUCTURE STANDARDS**

**Section 1. Purpose.**

It is the purpose of the provisions of this Ordinance to provide a just, equitable and practicable method to evaluate whether non-residential buildings or structures fail to meet minimum standards of maintenance, sanitation, and safety established by the Village. The minimum standards address conditions that are dangerous and injurious to public health, safety, and welfare and identify circumstances under which a public necessity exists for the repair, closing, or demolition of such buildings or structures. The provisions of this Ordinance are cumulative with and in addition to any other remedy provided by law including the current editions of standard codes adopted by the Village of Wesley Chapel.

## **Section 2. Findings; Authority.**

Pursuant to Chapter 160A-439 of the General Statutes of North Carolina, it is hereby found and declared that there exist in the Village non-residential buildings or structures which are unsafe and especially dangerous to life because of liability to fire or because of bad conditions of walls, overloaded floors, defective construction, decay, unsafe wiring or heating systems, inadequate means of egress and other causes.

In addition, it is hereby found and declared, that there exist in the Village non-residential buildings or structures which, although not meeting the classification of unsafe and especially dangerous to life, fail to fully comply with all the minimum standards for non-residential buildings or structures fitness as established herein and, therefore, have present one or more conditions which are inimical to the public health, safety and general welfare. Such conditions, if not corrected, can lead to deterioration and dilapidation of non-residential buildings or structures which render them unsafe and especially dangerous to life.

## **Section 3. Scope; Jurisdiction.**

The provisions of this Ordinance shall apply to all existing non-residential buildings or structures and to all non-residential buildings or structures hereafter constructed within the corporate Village limits as now or hereafter established.

## **Section 4. General Definitions and Interpretations.**

Unless specifically defined in Section 5, words used in the Non-Residential Building or Structure Standards shall have their respective customary dictionary definitions. For the purpose of these regulations certain words, terms or phrases used herein are interpreted and defined as follows:

Words used in the present tense shall include the future tense.

Words used in the singular shall include the plural and words used in the plural shall include the singular.

The words "shall" and "will" always indicate MANDATORY. The words "should" and "may" always indicate OPTIONAL.

The word "lot" includes the words "plot" and/or "parcel".

The word "building" includes the word "structure".

The word "person" includes a "firm, association, organization, partnership, trust, company, corporation and/or individual".

The word "use" includes the terms "arranged, designed, and/or intended" for a use, activity and/or purpose.

The term "Board of Adjustment" shall always indicate the BOARD OF ADJUSTMENT OF THE VILLAGE OF WESLEY CHAPEL, NORTH CAROLINA as created and appointed by the Village Council of the Village of Wesley Chapel.

The term "Village Council" shall always indicate the VILLAGE COUNCIL OF THE VILLAGE OF WESLEY CHAPEL, NORTH CAROLINA.

### **Section 5. Special Definitions and Interpretations.**

The following definitions shall apply in the interpretation and enforcement of this Ordinance:

**Building:** Any covered structure intended for shelter, housing or enclosure of persons, animals, facilities, equipment or chattels; the term Building shall be construed to include the term Structure; furthermore, it shall be construed as if followed by the term or part thereof.

**Building, Accessory:** A detached subordinate building located on a lot, parcel or tract whose use is incidental to that of the principal building. A building cannot be considered accessory unless it accompanies a principal building on the same lot, parcel or tract.

**Building, Principal:** A building in which the principal use of the lot, parcel or tract is conducted.

**Building Code:** The North Carolina State Building Code.

**Deterioration:** The condition of a building or part thereof, characterized by holes, breaks, rot, crumbling, rusting, peeling paint or other evidence of physical decay or loss of structural integrity.

**Fire Hazard:** (see also **Nuisance**) Any thing or act which increases, or may cause an increase of, the hazard, likelihood or menace of fire to a greater degree than reasonable for the conduct of the non-residential use on the premises, or which may unreasonably obstruct, delay, or hinder, or may unreasonably become the cause of an obstruction, a delay, a hazard or an unreasonable hindrance to the prevention, suppression or extinguishment of fire.

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

**Infestation:** The haunting or overrunning by rats, snakes, birds, insects or other destructive vermin or animals that endanger the public health and safety.

**Non-Residential Building or Structures Standards Inspector:** The person delegated as such by the Village Council of the Village of Wesley Chapel. (Hereinafter referred to as "the Inspector".)

**Nuisance:**

- 1) Any public nuisance known as common law or in equity jurisprudence, or as provided by the statutes of the State of North Carolina, or the ordinances of the Village of Wesley Chapel; or.
- 2) Any condition including an attractive nuisance which may prove detrimental to human health or safety whether in a building, on the premises of a building, or part of a building or upon an occupied lot; or.
- 3) Physical conditions dangerous to human life or detrimental to health of persons in, on or near the premises where the condition exists; or
- 4) Unsanitary conditions or conditions that are dangerous to public health, well-being or the general welfare; or
- 5) Fire hazards or other safety hazards.

**Occupant:** Any person who has charge, care or control of a non-residential building or structure or a part thereof, whether with or without the knowledge and consent of the owner, or any person, individually or jointly, entitled to possession regardless of whether the building or structure is actually occupied or not.

**Owner:** The holder of the title in fee simple and every mortgagee of record of a property.

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

**Physical Valuation:** The estimated cost to replace a building in kind.

**Plumbing:** All of the following supplies, facilities and equipment: gas pipes, gas burning equipment, water pipes, water heaters, garbage disposal units, waste pipes, water closets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes washing machines, catch basins, vents and other similar fixtures, together with all connections to water, sewer or gas lines, and water pipes and lines utilized in conjunction with HVAC equipment.

**Premises:** A lot, plot or parcel of land including the buildings or structures thereon, under control by the same owner or occupant, devoted to or zoned for non-residential use.

**Public Sanitary Sewer:** Any sanitary sewer owned, operated and maintained by the County and/or the Village of Wesley Chapel and available for public use for the disposal of sewage.

**Rubbish:** Combustible and non-combustible waste materials, except garbage and ashes, including, but not limited to, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass crockery and dust.

**Sewage:** Waste from a flush toilet, bathtub, sink, lavatory, dishwashing or laundry machine, or water-carried waste from any other fixture, equipment or machine.

**Structurally Sound:** Substantially free from flaw, defect, decay or deterioration to the extent that such structure or structural member is capable of adequately or safely accomplishing the purpose for which it was intended or designed.

**Structure:** Anything constructed or erected which requires location on the ground. (Refer to the definition of "building" herein.)

**Supplied:** Paid for, furnished or provided by, or under control of, the owner or occupant.

**Vacant Industrial Warehouse:** Any building or structure designed for the storage of goods or equipment in connection with manufacturing processes, which has not been used for that purpose for at least one year and has not been converted to another use.

**Vacant Manufacturing Facility:** Any building or structure previously used for the lawful production or manufacturing of goods, which has not been used for that purpose for at least one year and has not been converted to another use.

#### **Section 6. Office of Non-Residential Building or Structure Standards Inspector Created; Powers and Duties.**

(a) For the purposes of administering and enforcing the provisions of this Ordinance, the office of Non-Residential Building or Structures Standards Inspector, (herein called "Inspector"), is hereby created.

(b) The Inspector shall be appointed by the Village Council and shall have such powers as may be necessary or convenient to carry out and effectuate the purposes and provision of this Ordinance, including without limiting the generality of the foregoing, in addition to others herein granted, the following powers:

(1) To investigate the non-residential building conditions in the jurisdiction in order to determine which buildings therein are unsafe, being guided in such examinations of buildings by the requirements set forth in this Ordinance and for the purpose of carrying out the objectives of this Ordinance with respect to such non-residential buildings or structures.

(2) To administer oaths and affirmations and to examine witnesses and receive evidence.

(3) To enter upon and within premises and buildings for the purpose of making examinations and investigations; provided, that such entries shall be made at reasonable hours in such a manner as to cause the least possible inconvenience to the persons in possession.

(4) To delegate any of his functions and powers under this Ordinance to such officers and agents as he may designate.

**Section 7. Duties and Responsibilities of the Owner.**

It shall be the duty and responsibility of the owner to maintain all non-residential buildings or structures in accordance with all standards for non-residential buildings or structures fitness as stated in this Ordinance.

**Section 8. Duties and Responsibilities of the Occupant.**

It shall be the duty and responsibility of the occupant to ensure that:

- 1) All parts of the premises under the control of the occupant shall be kept in a safe, clean and sanitary condition consistent with the non-residential use and the occupant shall refrain from performing any acts which would render any part of the building or premises unsafe or unsanitary or which would obstruct any adjacent owner/occupant from performing any duty required, or from maintaining his building or premises in a safe and sanitary condition.
- 2) Every occupant shall be responsible for the elimination of infestation in and on the premises, subject to his control.
- 3) Every occupant shall maintain all supplied plumbing fixtures in a safe and sanitary condition and shall be responsible for the exercise of reasonable care in the proper use and operation of same.
- 4) No garbage or solid waste shall be stored or allowed by the occupant to accumulate on the premises unless contained in a trash receptacle(s) which is in accordance with the Ordinances of the Village of Wesley Chapel.
- 5) Damage to public sidewalks and/or curb and gutter located in the public right-of-way shall be repaired or replaced at no expense to the Village when such damage is caused by vehicles making deliveries to the non-residential use under the control of the occupant.
- 6) Where the owner would not otherwise know of a defect of any facility, utility or equipment required to be furnished hereunder and the same is found to be defective or inoperable, the occupant affected thereby shall, upon learning of such defect, provide notice to the owner.

**Section 9. Relationship of Duties and Responsibilities to Occupancy.**

The provisions of this Ordinance that apply to the exterior or exterior components of a structure or building or to the premises shall be complied with whether the structure or building or premises is occupied or vacant. All unoccupied or vacant structures or buildings shall be secured by their owners to prevent the entry of unauthorized persons or the formation of nuisance conditions such as infestation.

**Section 10. Validity.**

If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The Village Council hereby declares that it would have passed this Ordinance and each section,

subsection, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections sentences, clauses or phrases be declared invalid.

### **Section 11. Conflict with Other Provisions.**

In the event any provision, standard or requirement of this Ordinance is found to be in conflict with any provision of any other ordinance or code of the Village, the provision which establishes the higher standard or more stringent requirement for the promotion and protection of the health and safety of the residents of the jurisdiction shall prevail. The North Carolina State Building Code, current edition, shall serve as the standard for all alterations, repairs, additions, removals, demolitions and other acts of building made or required pursuant to this Ordinance.

### **Section 12. Amendments.**

The Village Council may, from time to time amend, supplement, or change the provisions and requirements of this Ordinance. Any such amendment shall be by ordinance of the Village Council.

### **Section 13. Unlawful to own unsafe buildings and structures.**

(A) It shall be unlawful for any firm, person or corporation to own a building or a structure situated in the jurisdiction of the Village of Wesley Chapel which is in such a defective or hazardous condition that it is unsafe and especially dangerous to life. The Village Council has determined that unsafe and especially dangerous buildings and structures are detrimental to the health, safety and welfare of the citizens of Wesley Chapel, that such unsafe and especially dangerous buildings and structures shall be condemned, and that the owners of such unsafe and especially dangerous buildings and structures shall immediately remedy the unsafe, dangerous, hazardous or unlawful conditions or demolish such buildings or structures.

(B) A building or structure shall be found to be especially dangerous to life and held unsafe by the Inspector if the Inspector finds that any one (1) of the following conditions exists in such building or structure:

- (1) Interior walls or vertical studs which seriously list, lean or buckle to an extent as to render the building unsafe.
- (2) Supporting member or members which show thirty-three (33) percent or more damage or deterioration, or non-supporting, enclosing or outside walls or covering which shows fifty (50) percent or more of damage or deterioration.
- (3) Floors or roofs which have improperly distributed loads, which are overloaded or which have insufficient strength to be reasonably safe for the purpose used.
- (4) Such damage by fire, wind or other causes as to render the building unsafe.
- (5) Dilapidation, decay, unsanitary conditions or disrepair which is dangerous to the health, safety or welfare of the occupants or other people of the jurisdiction.

- (6) Inadequate facilities for egress in case of fire or panic.
- (7) Defects significantly increasing the hazards of fire, accident or other calamities.
- (8) Lack of adequate ventilation, light, heating or sanitary facilities to such extent as to endanger the health, safety or general welfare of the occupants or other residents of the jurisdiction.
- (9) Lack of proper electrical, heating or plumbing facilities required by this Ordinance which constitutes a health or a definite safety hazard.
- (10) For any building whose occupancy classification requires it, lack of connection to a potable water supply and/or to the public sanitary sewer or other approved sewage disposal system. For the purposes of this standard, a building is not connected to a potable water supply if the water supply has been "cut off" because of nonpayment of the water bill or otherwise or if the system for any reason is not receiving a flow of potable water to the tap.
- (11) Any violation of the State Fire Prevention Code which constitutes a condition which is unsafe and especially dangerous to life.
- (12) Any abandoned non-residential building or structure which is found to be a health or safety hazard by the Inspector as a result of the attraction of insects or rodents, conditions creating a fire hazard, dangerous conditions constituting a threat to children, or frequent use by vagrants as living quarters in the absence of sanitary facilities.

(C) In addition to conditions 1-12 enumerated in (B) above, any one of which renders a building or structure unsafe, the Inspector shall determine that a non-residential building or structure is unsafe if he finds that a building or structure fails to fully comply with any five (5) or more of the following enumerated standards of building and premises fitness. Full compliance with a standard means that if any part of the stated standard is not complied with by a particular building and premises, then that building and premises has failed to fully comply with the enumerated standard.

#### GENERAL

- (1) Buildings and premises shall be kept clear of accumulations of garbage, trash, or rubbish which create health and sanitation problems. All garbage and solid waste shall be in approved containers or stored in a safe and sanitary way.
- (2) Flammable, combustible, explosive or other dangerous or hazardous materials shall be stored in a manner approved for such materials and consistent with the State Fire Prevention Code.
- (3) Buildings and premises shall be kept free of loose and insufficiently anchored overhanging objects which constitute a danger of falling on persons or property.
- (4) The premises shall be kept free of insufficiently protected holes, excavations, breaks, projections, obstructions and other such dangerous impediments on and around fences, walls,

walks, driveways, parking lots and other areas which are accessible to and generally used by persons on the premises.

(5) Building and premise surfaces shall be kept clear of cracked or broken glass, loose shingles, loose wood, crumbling stone or brick, loose or broken plastic or other dangerous objects or similar hazardous conditions. Exterior surfaces shall be maintained in such material or treated in such a manner as to prevent deterioration.

(6) Buildings and premises shall be kept free of objects and elements protruding from building walls, roof or premises which are unsafe or not properly secured or which can create a hazard such as abandoned electrical boxes and conduits, wires, sign brackets and other brackets, and similar objects.

#### APPURTENANCES

(7) All chimneys, flues and vent attachments thereto shall be maintained structurally sound. Chimneys, flues, gas vents or other draft-producing equipment which are in use shall provide sufficient draft to develop the rated output of the connected equipment, shall be structurally safe, durable, smoke-tight and capable of withstanding the action of flue gases.

(8) All exterior porches, landings, balconies, stairs and fire escapes shall be provided with banisters or railings properly designed and maintained to minimize the hazard of falling, and the same shall be kept structurally sound, in good repair, and free of defects.

(9) All cornices shall be made structurally sound. Rotten or weakened portions shall be removed and/or replaced. All exposed wood shall be treated or painted.

(10) Gutters and down spouts shall be replaced or repaired as necessary and shall be appropriately located and securely installed so as not to cause a hazard to pedestrians, vehicular traffic or property.

(11) Attached and unattached accessory structures shall be maintained in a state of good repair.

(12) Advertising sign structures, attached or freestanding, awnings, marquees and their supporting members and other similar attachments and structures shall be maintained in good repair and shall not cause a nuisance or safety hazard.

#### STRUCTURAL

(13) Walls, partitions, supporting members, sills, joists, rafters or other structural members shall not list, lean or buckle, shall not be rotted, deteriorated or damaged, and shall not have holes or cracks which might admit rodents.

(14) Floors or roofs shall have adequate supporting members and strength to be reasonably safe for the purpose used.

(15) Foundations, foundation walls, piers or other foundation supports shall not be deteriorated or damaged.

(16) Interior and exterior steps, railings, landings, porches or other parts or appurtenances shall be maintained in such condition that they will not fall or collapse.

(17) Where a wall of a building has become exposed as a result of demolition of an adjacent building said wall must have all doors, windows, vents or other similar openings closed with material of the type comprising the wall unless such doors, windows, vents or other similar openings are to be maintained in accordance with the provisions of this Chapter. No protrusions or loose material shall be in the wall. The exposed wall shall be painted, stuccoed or bricked and weatherproofed if necessary to prevent deterioration of the wall.

#### PLUMBING, ELECTRICAL AND SUPPLIED FACILITIES

(18) All plumbing fixtures and pipes shall meet the standards of the State Plumbing Code and shall be maintained in a state of good repair and in good working order.

(19) All electrical fixtures, receptacles, equipment and wiring shall be maintained in a state of good repair, safe, capable of being used, and installed in accordance with the State Electric Code.

(20) Every supplied facility, piece of equipment or utility which is required under this Ordinance or the State Building Code for occupancy or use shall be so constructed or installed that it will function safely and effectively and shall be maintained in satisfactory working condition.

#### EGRESS

(21) Facilities for egress in case of fire or panic shall be adequate and shall remain clear for such purposes.

(22) All windows must be tight-fitting and have sashes of proper size and design and free from rotten wood, broken joints, or broken or loose mullions.

(23) All windows shall be maintained free of broken glass that could be dangerous to the public, invitees or third parties ordinarily expected to use the premises, from falling or shattering.

(24) All openings originally designed as windows shall be maintained as windows, unless specifically approved by the Inspector for enclosure.

#### DRAINAGE

(25) All yards and premises shall be properly graded and maintained so as to obtain thorough drainage and so as to prevent the accumulation of stagnant water.

**Section 14. Buildings and Premises Not Declared Unsafe But Which Are Not in Compliance With All Standards.**

In any case where the Inspector determines that a non-residential building or structure fails to fully comply with one or more but less than five of the standards of non-residential buildings or structures fitness set forth in Section 13(C), such building or structure shall not be found to be unsafe and shall not be subject to the procedures and remedies as provided for in this Ordinance for unsafe buildings and premises. Each such failure of non-compliance, however, shall constitute a violation of the terms of this Ordinance and shall subject the violator to the penalties and enforcement procedures of Section 28. In such case the Inspector shall notify the owner as provided for in Section 19.18.

**Section 15. Investigation.**

Whenever it appears to the Inspector that any nonresidential building or structure has not been properly maintained so that the safety or health of its occupants or members of the general public are jeopardized for failure of the property to meet the minimum standards established by the Town Council, the Inspector shall undertake a preliminary investigation. If entry upon the premises for purposes of investigation is necessary, such entry shall be made pursuant to a duly issued administrative search warrant in accordance with G.S. 15-27.2 or with permission of the owner, the owner's agent, a tenant, or other person legally in possession of the premises.

**Section 16. Complaint and Notice of Hearing.**

If the preliminary investigation discloses evidence of a violation of the minimum standards, the Inspector shall issue and cause to be served upon the owner of and parties in interest in the nonresidential building or structure a complaint. The complaint shall state the charges and contain a notice that a hearing will be held before the Inspector (or his or her designated agent) at a place within the county scheduled not less than 10 days nor more than 30 days after the serving of the complaint; that the owner and parties in interest shall be given the right to answer the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint; and that the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the Inspector.

**Section 17. Order to take corrective action; contents; issuance.**

If, after notice and hearing, the Inspector determines that the nonresidential building or structure has not been properly maintained so that the safety or health of its occupants or members of the general public is jeopardized for failure of the property to meet the minimum standards as established by the Village Council, the Inspector shall state in writing the findings of fact in support of that determination and shall issue and cause to be served upon the owner thereof an order. The order may require the owner to take remedial action, within a reasonable time specified, subject to the procedures and limitations herein.

(A) An order may require the owner to repair, alter, or improve the nonresidential building or structure in order to bring it into compliance with the minimum standards established by the Village Council or to vacate and close the nonresidential building or structure for any use.

(B) An order may require the owner to remove or demolish the nonresidential building or structure if the cost of repair, alteration, or improvement of the building or structure would exceed fifty percent (50%) of its then current value. Notwithstanding any other provision of law, if the nonresidential building or structure is designated as a local historic landmark, listed in the National Register of Historic Places, or located in a locally designated historic district or in a historic district listed in the National Register of Historic Places and the Village Council determines, after a public hearing as provided by ordinance, that the nonresidential building or structure is of individual significance or contributes to maintaining the character of the district, and the nonresidential building or structure has not been condemned as unsafe, the order may require that the nonresidential building or structure be vacated and closed until it is brought into compliance with the minimum standards established by this ordinance.

(C) An order **may not** require repairs, alterations, or improvements to be made to vacant manufacturing facilities or vacant industrial warehouse facilities to preserve the original use. The order may require such building or structure to be vacated and closed, but repairs may be required only when necessary to maintain structural integrity or to abate a health or safety hazard that cannot be remedied by ordering the building or structure closed for any use.

#### **Section 18. Service of Complaints and Orders of Inspector.**

Complaints or orders issued by the Inspector pursuant to this ordinance shall be served upon persons either personally or by registered or certified mail so long as the means used are reasonably designed to achieve actual notice. When service is made by registered or certified mail, a copy of the complaint or order may also be sent by regular mail. Service shall be deemed sufficient if the registered or certified mail is refused, but the regular mail is not returned by the post office within 10 days after the mailing. If regular mail is used, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected. If the identities of any owners or the whereabouts of persons are unknown and cannot be ascertained by the Inspector in the exercise of reasonable diligence, and the Inspector makes an affidavit to that effect, the serving of the complaint or order upon the owners or other persons may be made by publication in a newspaper having general circulation in the Village at least once no later than the time that personal service would be required under this section. When service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises affected.

#### **Section 19. Appeal of Order of Inspector; finality if not appealed.**

Any owner who has received an order under Section 17 may appeal from the order to the Village Board of Adjustment by giving notice of appeal in writing to the Inspector and to the Village Clerk within ten (10) days following issuance of the order. In the absence of an appeal to the Board of Adjustment within the prescribed time, the order of the Inspector shall be final. The Board of Adjustment shall hear appeals within a reasonable time after receipt of the notice of appeal and it may modify and affirm or revoke the order. Any person aggrieved by a decision or order of the Inspector shall have the remedies provided in G.S. 160A-446.

**Section 20. Failure to comply with Order of Inspector.**

(A) If the owner fails to comply with an order to repair, alter, or improve or to vacate and close the nonresidential building or structure, the Village Council may adopt an ordinance ordering the Inspector to proceed to effectuate the purpose of this section with respect to the particular property or properties that the Inspector found to be jeopardizing the health or safety of its occupants or members of the general public. The property or properties shall be described in the ordinance. The ordinance shall be recorded in the Office of the Register of Deeds and shall be indexed in the name of the property owner or owners in the grantor index. Following adoption of an ordinance, the Inspector may cause the building or structure to be repaired, altered, or improved or to be vacated and closed. The Inspector may cause to be posted on the main entrance of any nonresidential building or structure so closed a placard with the following words: "This building is unfit for any use; the use or occupation of this building for any purpose is prohibited and unlawful." Any person who occupies or knowingly allows the occupancy of a building or structure so posted shall be guilty of a misdemeanor.

(B) If the owner fails to comply with an order to remove or demolish the nonresidential building or structure, the Village Council may adopt an ordinance ordering the Inspector to proceed to effectuate the purpose of this section with respect to the particular property or properties that the Inspector found to be jeopardizing the health or safety of its occupants or members of the general public. No ordinance shall be adopted to require demolition of a nonresidential building or structure until the owner has first been given a reasonable opportunity to bring it into conformity with the minimum standards established by the Village Council. The property or properties shall be described in the ordinance. The ordinance shall be recorded in the Office of the Register of Deeds and shall be indexed in the name of the property owner or owners in the grantor index. Following adoption of an ordinance, the Inspector may cause the building or structure to be removed or demolished.

**Section 21. Remedies; lien for cost of demolition and removal.**

(A) The amount of the cost of repairs, alterations, or improvements, or vacating and closing, or removal or demolition by the Inspector shall be a lien against the real property upon which the cost was incurred, which lien shall be filed, have the same priority, and be collected as the lien for special assessment provided in Article 10 of Chapter 160A of the General Statutes.

(B) The amount of the costs is also a lien on any other real property of the owner located within the Village limits except for the owner's primary residence. The additional lien provided in this subdivision is inferior to all prior liens and shall be collected as a money judgment.

(C) If the nonresidential building or structure is removed or demolished by the Inspector, he or she shall offer for sale the recoverable materials of the building or structure and any personal property, fixtures, or appurtenances found in or attached to the building or structure and shall credit the proceeds of the sale, if any, against the cost of the removal or demolition, and any balance remaining shall be deposited in the superior court by the Inspector, shall be secured in a manner directed by the court, and shall be disbursed by the court to the persons found to be entitled thereto by final order or decree of the court. Nothing in this section shall be construed to impair or limit in any way the power

of the Village Council to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise.

**Section 22. Failure of occupant to comply with order to vacate.**

If any occupant fails to comply with an order to vacate a nonresidential building or structure, the Inspector may file a civil action in the name of the Village to remove the occupant. The action to vacate shall be in the nature of summary ejectment and shall be commenced by filing a complaint naming as parties-defendant any person occupying the nonresidential building or structure. The Clerk of Superior Court shall issue a summons requiring the defendant to appear before a magistrate at a certain time, date, and place not to exceed 10 days from the issuance of the summons to answer the complaint. The summons and complaint shall be served as provided in G.S. 42-29. The summons shall be returned according to its tenor, and if on its return it appears to have been duly served and if at the hearing the Inspector produces a certified copy of an ordinance adopted by the Village Council pursuant to Section 20 of this Ordinance to vacate the occupied nonresidential building or structure, the magistrate shall enter judgment ordering that the premises be vacated and all persons be removed. The judgment ordering that the nonresidential building or structure be vacated shall be enforced in the same manner as the judgment for summary ejectment entered under G.S. 42-30. An appeal from any judgment entered under this subsection by the magistrate may be taken as provided in G.S. 7A-228, and the execution of the judgment may be stayed as provided in G.S. 7A-227. An action to remove an occupant of a nonresidential building or structure who is a tenant of the owner may not be in the nature of a summary ejectment proceeding pursuant to this subsection unless the occupant was served with notice, at least 30 days before the filing of the summary ejectment proceeding, that the governing body has ordered the Inspector to proceed to exercise his duties under Section 20 of this Ordinance to vacate and close or remove and demolish the nonresidential building or structure.

**Section 23. Action by Village Council Upon Abandonment of Intent to Repair.**

(A) If the Village Council has adopted an ordinance or the Inspector has issued an order requiring the building or structure to be repaired or vacated and closed and the building or structure has been vacated and closed for a period of two years pursuant to the ordinance or order, the Village Council may make findings that the owner has abandoned the intent and purpose to repair, alter, or improve the building or structure and that the continuation of the building or structure in its vacated and closed status would be inimical to the health, safety, and welfare of the municipality in that it would continue to deteriorate, would create a fire or safety hazard, would be a threat to children and vagrants, would attract persons intent on criminal activities, or would cause or contribute to blight and the deterioration of property values in the area. Upon such findings, the Village Council may, after the expiration of the two year period, enact an ordinance and serve such ordinance on the owner, setting forth the following:

- (1) If the cost to repair the nonresidential building or structure to bring it into compliance with the minimum standards is less than or equal to fifty percent (50%) of its then current value, the ordinance shall require that the owner either repair or demolish and remove the building or structure within 90 days; or

(2) If the cost to repair the nonresidential building or structure to bring it into compliance with the minimum standards exceeds fifty percent (50%) of its then current value, the ordinance shall require the owner to demolish and remove the building or structure within 90 days.

(B) In the case of vacant manufacturing facilities or vacant industrial warehouse facilities, the building or structure must have been vacated and closed pursuant to an order or ordinance for a period of **five years** before the Village Council may take action under this subsection. The ordinance shall be recorded in the office of the register of deeds in the county wherein the property or properties are located and shall be indexed in the name of the property owner in the grantor index. If the owner fails to comply with the ordinance, the Inspector shall effectuate the purpose of the ordinance.

#### **Section 24. Demolition of Non-Residential Buildings by Owner.**

Where a non-residential building or structure is under the jurisdiction of this Ordinance, the building may be demolished by the owner provided that the following requirements are met:

- (1) The owner shall obtain a demolition permit from the Building Inspections Department.
- (2) All sewer, gas, water and similar taps or connections shall be properly closed and disconnected.
- (3) All debris from the building shall be removed from the site. This requirement is for the removal of all debris that is above the street level of the building.
- (4) The lot shall be graded to a smooth, even, finished grade, free from building material, debris, holes, and/or depressions. Where building debris remains on the site below street level, the owner must back fill the lot with twelve (12) inches of clean fill which shall be graded to a smooth, even finished grade.
- (5) Where walls of adjacent buildings become exposed as a result of the demolition, said walls must have all doors, windows, vents or other similar openings closed with material of the type comprising the wall, unless such doors, windows, vents, or other similar openings are to be maintained in accordance with the provisions of this Ordinance. No protrusions or loose material shall be in the wall. The exposed wall shall be painted, stuccoed or bricked and weatherproofed if necessary to prevent deterioration of the wall.

#### **Section 25. Inspections.**

(A) For the purpose of carrying out the intent of this Ordinance, the Inspector is hereby authorized to enter, examine and survey at all reasonable times all non-residential buildings and premises, including abandoned structures. The owner or occupant of every non-residential building or the person in charge thereof, shall give the Inspector free access to such building and its premises, at all reasonable times for the purposes of such inspection, examination and survey. Every occupant

**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.

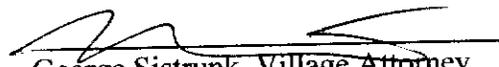
Adopted this 9th day of March, 2015.

  
Brad Horvath, Mayor

ATTEST:

Approved as to form:

  
Cheryl Bennett, Village Clerk

  
George Sistrunk, Village Attorney