

ORDINANCE NO. 2019-04

AN ORDINANCE OF THE CITY COUNCIL FOR THE CITY OF WESTLAKE, FLORIDA, ESTABLISHING REGULATIONS FOR PROPERTY MAINTENANCE WITHIN THE CITY OF WESTLAKE; PROVIDING FOR PURPOSE AND INTENT; PROVIDING FOR DEFINITIONS; PROVIDING FOR RESIDENTIAL AND COMMERCIAL PROPERTY MAINTENANCE STANDARDS; PROVIDING RESPONSIBILITIES FOR OWNERS AND OPERATORS TO MAINTAIN SAFE AND SANITARY CONDITIONS OF PROPERTY, ALL OF WHICH SHALL BECOME PART OF THE CODE OF ORDINANCES, ENTITLED "PROPERTY MAINTENANCE", PROVIDING FOR CODIFICATION, PROVIDING FOR A CONFLICTS CLAUSE, PROVIDING FOR SEVERABILITY, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on or about May 3, 2018, the Florida Department of Economic Opportunity provided the City with notice of intent to find the City's initial comprehensive plan in compliance and is now the effective and controlling Comprehensive Plan for the City of Westlake (Comprehensive Plan); and

WHEREAS, the purpose of this ordinance is to provide requirements and maintenance standards for vacant, residential and non-residential properties within the jurisdictional boundaries for the City of Westlake; and

WHEREAS, this ordinance seeks to preserve and improve the quality of life for residents and businesses within the city through the enforcement of the property maintenance codes and ordinances, which regulate the structural strength, stability, sanitation, adequate light and ventilation and safety of life and property from fire and other hazards incident to the construction, alteration, repair, removal, demolition, use and occupancy of buildings, structures or premises; and

WHEREAS, there are structures which are used for human habitation which may become in the future, substandard with respect to structure, equipment or maintenance, and further, that such conditions, together with inadequate provisions for light and air, insufficient protection against fire hazards, lack of proper heating, unsanitary conditions and overcrowding constitute a menace to the health, safety, welfare and reasonable comfort of its citizens, and;

WHEREAS, the existence of such conditions will if not remedied, create slum and blighted areas requiring large scale clearance, and such areas may create deterioration of social values, a curtailment of investment and tax revenues and an impairment of economic values, and

WHEREAS, the on-going residential and non-residential construction requires regulations for the site development, protection of abutting properties, protection of the drainage systems, and maintenance of adequate ingress and egress during construction, and;

WHEREAS, the City seeks to preserve the property values within the City by preventing accumulation of litter, prevention of nuisance(s), the elimination of abandoned property and inoperable vehicles, all of which contribute to a decrease in property values; and

WHEREAS, the Local Planning Agency has conducted a hearing on November 4, 2019, and made a recommendation to the City Council with respect to the adoption of the Property Maintenance code ordinance; and

WHEREAS, the City Council has conducted a public hearing on December 9, 2019, considered the recommendation of the Local Planning Agency Board, the City staff and comments from the public into consideration and has determined that the adoption of this Property Maintenance code ordinance is in the best interest of the public safety and welfare of the City of Westlake; and

WHEREAS, the intent of the City Council in adopting this code is to establish reasonable and uniform regulations that will protect the health, safety, property values, and general welfare of its residents, visitors, businesses, and industries of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY FOR THE CITY OF WESTLAKE, FLORIDA, as follows:

Section 1. Incorporation. The above recitals are confirmed, adopted and are incorporated herein by reference.

Section 2. Property Maintenance. The code of ordinances for the City of Westlake shall contain a chapter entitled *"Property Maintenance"* which code shall contain the provisions as specifically set forth herein.

Chapter 22 Property Maintenance

Article I

Section 22.01 Purpose of Chapter.

The purpose of this Chapter is to establish minimum standards for the maintenance, upkeep and appearance of improved or unimproved premises; to minimize impacts of construction; and to provide a just, equitable and practicable method to preclude:

- (1) Residential and commercial buildings, structures and premises from causing and/or endangering the life, limb, health, property, safety or welfare of the general public or their occupants; or
- (2) Diminished property values; or
- (3) Detracting from the appropriate appearance of the residential area, by way of example:
 - (a) Failure to remove abandoned property, litter or debris; or
 - (b) Failure to cut and/or remove the accumulation of weeds, grass or uncultivated vegetation.

Section 22.02 General provisions.

(a) **Maintenance.** Equipment, systems, devices and safeguards required by this chapter or a prior code under which the structure or premises was constructed, altered or repaired shall be maintained in good working order. The requirements of this chapter are not intended to provide the basis for removal or abrogation of fire protection or safety systems and devices in existing structures. Except as otherwise specified herein, the owner shall be responsible for the maintenance of buildings, structures and premises.

(b) **Application of other codes.** Repairs, additions or alterations to a structure, or changes of occupancy, shall be performed in accordance with the procedures and provisions contained in the

land development regulations and of the Florida building code. Nothing in this chapter shall be construed to cancel, modify or set aside any provision of this chapter.

(c) **Existing remedies.** The provisions in this chapter shall not be construed to abolish or impair other remedies of any local, state or federal jurisdiction or its officers or agencies relating to the removal or demolition of any structure.

(d) **Requirements not covered by this chapter.** The building official shall determine requirements necessary for the strength, stability or proper operation and general conditions acceptable for an existing fixture, structure or equipment not specifically covered by this chapter.

(e) **Deviation from chapter.** Where practical difficulties are prohibitive in carrying out the provisions of this chapter, the building official has the authority to grant deviations for individual cases. The deviation shall be in compliance with the intent and purpose of this chapter and shall not lessen health, life and fire safety requirements. The basis for granting deviations shall be recorded and entered in the department files.

(f) **Compliance.** It shall be the duty of each and every owner and operator of improved or unimproved property within the city to comply with the requirements set forth in this chapter. No permit or certificate of occupancy shall be issued unless there is compliance with all applicable sections of this chapter. No premises or building, or combination, shall be used in a manner inconsistent with or in conflict with the requirements of this chapter.

(g) **Conflict with other codes.** The provisions of this chapter shall apply to all buildings, structures or premises in existence or built within the city limits or annexed therein. Where the provisions of this chapter impose a standard different than that set forth in any other ordinance of the city or under the laws of the state, the most restrictive standard shall prevail.

(h) **Parts.** Whenever the words "dwelling unit," "dwelling," "premises," "building," "rooming house," "rooming unit" or "story" are stated in this chapter they shall be construed as though they were followed by the words "or any part thereof."

Section 22.03 - Definitions.

The following definitions shall apply for purposes of this chapter:

- 1) **Abandoned property** means any wrecked, inoperative, derelict or partially dismantled property having little, if any, value other than nominal salvage value, which has been left unattended and unprotected from the elements, which shall include, but not be limited to, motor vehicles, trailers, boats, machinery, appliances such as refrigerators and washing machines, plumbing fixtures, furniture, and any other similar articles.
- 2) **Approved** means approved by the building official or the building official's designated representative.
- 3) **Building** means any structure, either temporary or permanent, having a roof, and used or built for shelter or enclosure of persons, animals, chattels or property of any kind. Building code and technical codes means the Florida Building Code and the technical codes adopted by the City Council.
- 4) **Commercial business** means any business or enterprise that offers for sale goods or services, or which in any manner conducts commerce.
- 5) **Condemn** means to judge unfit for occupancy.
- 6) **Contractor** means and includes owner, operator, owner-builder or licensed contractor.
- 7) **Demolition** means the deconstructing, destroying, raising, tearing down, or wrecking of any building, including its foundation. As used herein, the word "demolition" shall not apply to partial demolition associated with major or minor remodeling.

- 8) **Deterioration** means the condition of a building or part thereof, characterized by holes, breaks, rot, crumbling, rusting, peeling paint or other evidence of physical decay, including the landscaping and the parking areas.
- 9) **Enclosed container** means, for purposes of this chapter, any physical structure which prevents materials from falling out, spilling, or coming out by other accidental means during storage or transport, and shall include, but not be limited to, garbage cans, boxes, truck bodies capable of being enclosed and any means sufficient to prevent the accidental scattering or leaking of said materials.
- 10) **Exterior property** means the open space on the premises outside of a building.
- 11) **Fire hazard (see "nuisance")** means any one thing or act which increases or may cause an increase of the hazard or menace of fire to a greater degree than reasonable, 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.
- 12) **Food waste** means the animal or vegetable waste resulting from the handling, preparation, cooking or consumption of food.
- 13) **Imminent danger** means a condition that could cause serious or life-threatening injury or death at any time.
- 14) **Improved property** means real property which contains buildings or other structural improvements.
- 15) **Inert waste materials** means brick, block, concrete, rock, stone, earth, and sand, free from contamination or other types of waste and capable of serving as fill material without harm to, or pollution of, ground or surface waters.
- 16) **Infestation** means to spread or foster in a troublesome manner.
- 17) **Litter** means any discarded, used, unconsumed substances or wastes. Litter shall include, but shall not be limited to, garbage, solid waste, trash, refuse, debris, paper products (including newspapers and magazines), glass, metal, plastic or other containers, cloth, wood and wood products, sweepings, liquids (other than uncontaminated water), sludge, grass clippings, tree limbs, trunks and roots, undergrowth and materials produced by clearing and grubbing and other horticulture wastes, motor vehicle parts and tires, furniture, oil or grease, hazardous wastes (including gasoline, paint thinners and other similar types), the carcass of a dead animal, any obnoxious or offensive matter of any kind, and any object or condition of any unsightly nature, which may have been discarded, abandoned or otherwise disposed of improperly.
- 18) **Nuisance** means any one or combination of the following:
 - a. Any public nuisance known at common law or in equity jurisprudence, or as provided by the statutes of the state or the ordinances of the city;
 - b. Any condition, including an attractive nuisance, which may prove detrimental to human health or safety, whether in a building or on the premises;
 - c. Physical conditions dangerous to human life or detrimental to health of persons in, on or near the premises where the condition exists;
 - d. Unsanitary conditions or conditions that are dangerous to public health, well-being or the general welfare;
 - e. Fire hazards; and
 - f. Unsightly conditions.
- 19) **Occupant** means any individual living or sleeping in a building or having possession of a space within a building.
- 20) **Operator** means any person who has charge, care or control of premises or a part thereof.
- 21) **Owner** means any person, agent, operator, business, firm or corporation having a legal or equitable interest in the fee title to the property; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property, including

the guardian of the estate of any such person, or the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

- 22) **Parking lot** means any parcel of real property with an outdoor area or space, paved or unpaved, approved for motor vehicle parking or storage.
- 23) **Permit** means approvals issued by building official, to include but not be limited to the construction site management plan approved by the building official.
- 24) **Project site** means the area within the property line where lot clearing and grading, stockpiling of soil, demolition, excavation, construction, reconstruction, renovation, remodeling, and minor remodeling may occur.
- 25) **Residential** means all single-family and multifamily buildings and structures.
- 26) **Right-of-way** means land to which the state, county, special district or city holds fee simple title or an easement for transportation or utility use.
- 27) **Rubbish** means combustible and noncombustible waste materials, except garbage; the term shall include the residue from the burning of wood, coal, and other combustible materials, paper, rags, cartons, boxes, wood, rubber, tree branches, yard trimmings, tin cans, metals, mineral matter, and glass and other similar materials.
- 28) **Stop work order** means a notice signed by the building official or designee to cease work or other activity on any site for which a permit has been issued or is subject to issuance.
- 29) **Storage of litter** means interim containment of litter in a manner approved by the city council, after generation of such litter and prior to proper and final disposal.
- 30) **Street** means the paved or improved portion of the right-of-way which is intended for public use by vehicles, pedestrians, bicycles and others and which affords the principal means of access to abutting property.
- 31) **Tenant** means a person, corporation, partnership or group who has the occupation or temporary possession of a dwelling unit or commercial premises but does not hold title to same.
- 32) **Vacant lot** means a parcel of real property which contains no buildings or structures of a temporary or permanent nature, which is not under construction. Vacant lot does not include property being utilized for active agricultural uses.
- 33) **Vacant structure** means a structure, accessory or principal, that is not occupied.
- 34) **Weeds** means all weeds, annual plants and uncultivated vegetation; however, this term shall not include trees, cultivated flowers, cultivated shrubs and gardens.

22.04 Vacant lot maintenance.

- (a) **Vegetation.** All vacant lots, including the area between the edge of pavement in the street and the lot line, shall be kept free from dry vegetation, accumulation of weeds, grass and uncultivated vegetation:
 - (1) Which present a visual blight upon neighborhoods; or
 - (2) Which may harbor insect or rodent infestations; or
 - (3) Which may likely become a fire hazard; or
 - (4) Which result in a condition which may threaten the health and safety or the economic welfare of abutting or adjacent property owners or occupants.
- (b) **General standards.**
 - (1) All vacant lots shall be free from potential fire hazards, to include but not be limited to dead trees, loose branches and palm fronds.
 - (2) All vacant lots shall comply with the following requirements:
 - a. They shall be covered in an amount of at least 90 percent, with grass or other living plant materials. All grasses or weeds, and uncultivated vegetation, shall not exceed eight inches in

height, including the area between the edge of pavement in the street and the lot line, unless there is an active building permit for construction on the property and the required construction fence is in place.

b. All debris, old pavement, shrubs and remains of previous improvements must be cleared from the site.

c. Docks, driveways, accessways, access aisles, fences and walls in good repair and free from cracks, holes, and weeds are permitted to remain on the site.

d. They shall be graded to avoid excessive water retention, unsafe conditions or excessive drainage on to neighboring properties.

e. If a lot has become vacant due to demolition, the lot shall be brought into compliance with this provision within 60 days after demolition is completed.

(3) Motor vehicles are prohibited from parking on or driving across any portion of a vacant lot, except for:

a. Areas designated and approved by the building official; and

b. Where the owner of the vacant lot has given written permission to the vehicle owner or operator.

(4) Nuisances are prohibited on all lots to include by way of example but not limitation: abandoned or broken equipment, discarded furniture, household appliances, trash, litter, debris, packing boxes, lumber, construction material, solid waste, horticulture debris, salvage materials and machinery.

22.05 - Residential and commercial property maintenance.

(a) All premises shall be maintained in compliance with the standards in this section. The allowing of debris, rubbish, trash, tin cans, papers, or stagnant water to accumulate, or a dense growth of trees, vines, underbrush, weeds, wild growth, on any lot, tract, or parcel of land in the city, to the extent and in the manner that it constitutes or may reasonably become a menace to life, property, the public health, or the public welfare; creates a fire hazard; or provides a nest or breeding ground for sandflies, mosquitoes, rats, mice, other rodents, snakes, and other types of pests and vermin, shall be unlawful and is prohibited and declared to be a public nuisance.

(b) Standards for improved property.

(1) **Foundation.** The building foundation system shall be adequately maintained and capable of supporting the load for which it was designed.

a. Wood supports shall be sound and free from insect infestation and rot.

b. Metal supports and connections shall be free from rust and the equivalent of new supports.

c. Skirting shall be maintained free from broken or missing sections, pieces or cross members. Skirting shall be securely attached and sized from the ground to the lower outside perimeter of the structure.

(2) **Exterior walls.** Exterior walls of buildings shall be:

a. Maintained free from holes, breaks, and loose or rotting materials; and

b. Maintained, weatherproofed and surfaces properly coated as needed to prevent deterioration. Decorative features such as cornices, belt courses, corbels, trim, wall facings and similar decorative features shall be maintained in good repair with proper anchorage. Any graffiti shall be removed or repainted to match existing surfaces.

(3) **Windows.**

- a. Every window shall be maintained in sound working condition and good repair to be substantially weather-tight and rodent-proof.
- b. Openings originally designed as windows shall be maintained as windows, unless approved by the building official for enclosure. The enclosure of a window shall be by either bricking the opening, blocking the opening with concrete blocks and stuccoing the exterior, or boarding the opening. When boarding is used, it shall be of trim fit, sealed to prevent water intrusion, and painted or stained to conform with the other exterior portions of the building. The boarding shall remain in place and be properly maintained.
- (4) **Shutters.** All shutters shall be maintained in good repair and securely attached to a structure. Peeling paint or preservatives is prohibited.
- (5) **Exterior doors.** Every exterior door and hatchway or garage door shall be kept in sound working condition and good repair.
- (6) **Exterior doorframes and storefronts.** Exterior doorframes and storefronts shall be maintained in good condition. All moldings shall be securely attached to the structure and maintained in good condition without splitting or deterioration.
- (7) **Exterior surface treatment.** All exterior surfaces, including by way of example and not limitation, doors and window frames, cornices, porches, decks, trim, balconies, fences and docks, shall be maintained in good condition. Exterior wood surfaces, other than decay-resistant woods, shall be protected from the elements and decay by painting or other protective treatment. Peeling paint is prohibited and surfaces shall be repainted. All metal surfaces shall be coated to inhibit rust and corrosion and all surfaces with rust or corrosion shall be stabilized and coated.
- (8) **Structural supports.** Every structural element of a dwelling shall be maintained in a structurally sound condition and shall not show evidence of deterioration that would make it incapable of carrying normal loads.
- (9) **Porches and balconies.** All exterior porches, balconies, stairs and fire escapes shall include banisters or railings properly designed and maintained to minimize the hazard of falling and installed to withstand the loads prescribed by the Florida Building Code. All exterior porches, landings, balconies, stairs and fire escapes shall be kept structurally sound, in good repair and free from defects. Paint and other finishes shall be in good condition.
- (10) **Stairs.** All stairs shall be maintained safe and free from tripping hazards. Treads shall be sound, without broken or chipped edges. Wooden stairs shall be free from decay or substantial wear that could cause a tripping hazard or have an unsightly appearance. Handrails and guardrails shall be maintained to withstand loads prescribed by the Florida Building Code.
- (11) **Roofs.** Roofs shall be maintained in a structurally sound and safe manner. Roofs shall be repaired using like materials to existing materials.
- (12) **Gutters and downspouts.** Gutters and downspouts shall be maintained in good repair and shall be neatly located and securely installed.
- (13) **Chimneys, flues, and vent attachments.** Chimneys, flues, and vent attachments shall be maintained in a structurally sound manner, free from defects to capably perform the functions for which they were designed.
- (14) **Overhang extensions.** All overhang extensions including, but not limited to, canopies, marquees, signs, metal awnings, fire escapes, standpipes, and exhaust ducts shall be maintained in good repair and properly anchored to remain in sound condition. All exposed surfaces of metal or wood shall be protected from the elements, decay or rust.

(15) **Insect screens.** All windows and other outside openings required for ventilation of food preparation areas, food service areas, or any areas where products utilized in food for human consumption are processed, manufactured, packaged or stored shall be supplied with approved tightly fitting screens of not less than 16 mesh (16 mesh per 25 mm). Every swinging door shall have a self-closing device in good working condition.

(16) **Commercial parking areas/walkways.** Holes, excavations, breaks, projections or obstructions on walks, driveways, parking lots and parking areas and other parts of commercial premises which are accessible to and used by persons on the premises are prohibited. Deficiencies shall be repaired, replaced or removed as appropriate. The building official shall set a time for performance for the owner to comply with this subsection. This subsection applies to occupied and unoccupied property. All surfaces, including those of parking lots, shall be maintained free of glass, loose shingles, loose wood, crumbling stone or brick, asphalt, concrete, stucco, loose or broken plastic or other similar hazardous conditions.

(17) **Accessory structures.** Garages, storage buildings and all other accessory structures shall be maintained and kept in good repair and sound structural condition.

(18) **Swimming pools.** All swimming pools, spas and architectural pools, ponds or bodies of water shall be properly maintained so as not to create a safety hazard or harbor insect infestation. Water shall not be allowed to stagnate or to become polluted. All pools shall be free from unsightly appearance.

(19) **Rodent harborage.** All structures and exterior premises shall be kept free from rodent harborage and infestation. Where rodents are found, the owner shall promptly exterminate rodents through a process which will not be injurious to human health.

(20) **Grass, weeds and uncultivated vegetation.** All grasses or weeds, and uncultivated vegetation, shall not exceed 8 inches in height on improved property, including the area between the edge of the pavement in the street and the lot line.

(21) **Shrubbery, plants, and ground cover.** All premises shall be maintained in a condition to prevent erosion of soil by:

- a. Landscaping with grass, trees, shrubs or other planted ground cover; or
- b. Such other suitable means as shall be approved by the building official, City Manager or designee.

(22) **Trees.** Trees shall be maintained or removed as follows:

a. **Hazardous trees.** Dead, dying, damaged or diseased trees are prohibited. A finding by a registered forester or certified arborist employed by the city that a tree is in danger of falling upon an adjacent lot or street due to death, disease or damage, including damage caused by weather conditions, is prima facie evidence of a violation of this section.

b. **Prohibited conditions.** The following conditions are prohibited:

1. Trees, plants, shrubs, vegetation, or parts thereof, which (i) overhang any sidewalk, street, alley or fire hydrant, and (ii) obstruct or impair the free and full use of the sidewalk, street, alley or fire hydrant by the public.
2. Grass, weeds, shrubs, bushes, trees or vegetation which constitute a fire hazard or a menace to public health, safety or welfare.

c. **Removal of obstruction.** The owner of any premises shall trim trees, plants, shrubs or vegetation, or any parts thereof as follows: (i) which overhang any sidewalk, alley or street as determined by the building official, and (ii) which interfere with the use of any sidewalk, alley,

street, poles, wires, pipes, fixtures or any other part of any public utility situated in the right-of-way.

(23) **Exterior lighting.** All outdoor lighting shall be in compliance with the following:

- a. Nonvehicular light sources that shine into the eyes of drivers of vehicles or pedestrians which could impair safe traverse are prohibited.
- b. All lighting shall be shielded and aimed at the owner's premises or sidewalk and street abutting the premises.
- c. This section does not apply to street lighting installed in rights of way.

(24) **Fences and walls.** Fences and walls shall be maintained in a safe and structurally sound condition, in good repair with the surface coated or painted. Fences shall be free from loose or rotting materials. Metal fencing shall be free from rust or deterioration.

(25) **Floors, interior walls and ceilings.** All floors, interior walls and ceilings of every structure shall be maintained in a structurally sound manner and in a condition consistent with its use.

(26) **Miscellaneous elements.** All existing miscellaneous elements on building walls, roofs and surrounding premises, to include by way of example empty electrical or other conduits, or unused sign brackets, shall be removed.

(27) **Landscape maintenance.** Where landscape plans have been specifically incorporated and approved in a development plan, the landscape areas shall be maintained in a manner equal to the original landscaping approval.

Article II

22.06 Litter.

(1) Storage of litter.

- a. All commercial businesses shall store litter in containers to eliminate wind-driven debris. The number and size of receptacles for each commercial business shall be that number required to maintain a clean, neat, and sanitary premises. Spillage and overflow of litter around containers is a violation.
- b. Commercial businesses shall provide and maintain litter containers adequate to contain litter generated from such business at its loading and unloading zones.
- c. Commercial businesses open to the public shall provide and maintain containers adequate to contain litter generated from such business.
- d. Every person in possession or in control of any place, public or private, where litter is accumulated or generated shall provide and maintain adequate and suitable containers capable of holding such litter until proper final disposal is accomplished.

(2) **Depositing litter.** To throw, discard, place, drop, or deposit litter in any manner or amount in or upon any public property, private property, highway, street, right-of-way or body of water within the limits of the city, except in such containers specifically provided and designated for the disposal of litter, is a violation. Litter strewn by a pedestrian except at approved and permitted disposal sites is a violation. Litter ejected or discarded from a motor vehicle except at approved and permitted disposal sites is a violation. Weeds, rubbish and unsanitary conditions is a violation.

(3) **Accumulation of litter.** Any accumulation of litter in or upon any property, vacant or improved, is deemed a nuisance and is prohibited. Failure to remove the accumulation by the property owner, tenant, occupant, agent, manager or other person who owns, maintains, or controls any premises or portion thereof, whether improved or unimproved, is a violation. Weeds, rubbish and unsanitary conditions is a violation.

22.07 Accessory structures. Garages, storage buildings and all other accessory structures shall be maintained in good repair and sound structural condition. Structures, attached or unattached to the principal structure, which are found by the building official to be structurally deficient, shall be repaired or demolished within the timeframe set by the building official. Maintenance of accessory structures shall comply with the following:

- (1) The exterior of the building and premises to include but not limited to parking areas and landscaped areas shall be maintained in a sound, clean and neat condition.
- (2) Signs shall be maintained in good condition. Where the sign structure remains, the sign faces are to be replaced with blank panels (permit required). The design and color is subject to approval by the building official, City Manager or designee.
- (3) All advertising structures, awnings and accompanying supporting members shall be maintained in good repair and shall not constitute a nuisance or safety hazard. Advertising structures or awnings not properly maintained in accordance with this subsection shall be removed. Awnings or marquees made of cloth, plastic or a similar material shall not show evidence of tearing, ripping or holes. Upon removal of an advertising structure or awning, all supporting members shall be removed. Nothing in this subsection shall be construed to authorize any encroachments on streets, sidewalks or other parts of the public right-of-way.
- (4) Where parking areas are to be barricaded to prohibit vehicular travel, it shall be accomplished by installation of parking bumpers pinned to the pavement.

22.08 Responsibilities of owner and operator.

- (a) It shall be the duty and responsibility of the operator and the owner to ensure compliance with the following:
 - (1) All parts of the premises under the control of the owner or operator shall be maintained in a safe and sanitary condition consistent with the business use.
 - (2) The owner or operator shall not perform any acts:
 - a. Which render other parts of the premises unsafe or unsanitary; or
 - b. Which obstruct any adjacent owner or operator from performing any duty required or maintaining the premises in a safe and sanitary condition.
 - (3) Every owner or operator shall eliminate infestation of rodents or insects in and on the premises subject to the owner's or operator's control.
 - (4) Every owner or operator shall maintain all plumbing fixtures in a safe and sanitary condition.
 - (5) No litter shall be stored or accumulated on the premises unless placed in a container in compliance with solid waste regulations.
 - (6) Upon learning of a defect or inoperable status of any facility, utility or equipment required under this Chapter which is the owner's responsibility, the operator shall provide written notice to the owner.

22.09 General maintenance.

- (a) **Nuisances and hazards.** Premises shall be maintained free of nuisances and any hazards to the safety of the occupants, customers or persons utilizing the premises or to pedestrians passing by.
- (b) **Walls exposed as a result of demolition.** Where a wall of a building is exposed as a result of demolition, the owner of the building shall have the wall with its doors, windows, vents or other similar openings closed with material of the type composing the wall. No protrusions or loose material shall be

in the wall. The exposed wall shall be painted, stuccoed or bricked, and weatherproofed, if necessary, based on construction material, to prevent deterioration of the wall.

(c) **Storage of flammable or combustible materials.** There shall be no storage or accumulation of flammable or combustible liquids or other materials on the premises unless approved for storage by the regulations or the codes, and only in such quantities prescribed by the regulations.

(d) **Abandoned curb cuts.** Where curb cuts are abandoned due to new construction or change of access by the owner, the curb cut shall be closed and replaced by the owner with a standard sidewalk, curb and gutter design, to match original.

(e) **Sidewalks or curbs damaged by delivery vehicles.** Damage to public sidewalks or curb and gutter located in the public right-of-way shall be repaired or replaced by the owner at no expense to the city when such damage is caused by vehicles making deliveries to the commercial premises.

22.10 Applicability of standards to vacant buildings; securing of vacant buildings.

The provisions of this chapter that apply to the exterior premises include vacant structures. Vacant structures are not required to comply with the interior requirements of this chapter. All vacant structures shall be secured to prevent the entry of unauthorized persons or the formation of nuisance conditions. Securing a vacant structure may include boarding of the building as determined by the building official. If required by the building official, windows and doors shall be boarded by the owner and the boarding shall be maintained to keep the building secured. The design and color of boarding is subject to approval by the building official and shall be designed so that the building does not appear to be abandoned.

22.11 Unsightly conditions.

The following conditions are hereby deemed to be unsightly conditions and are prohibited. The following conditions are prohibited on any premises in the city:

(1) Structures that are:

- a. Partially destroyed; or
- b. Left in a state of disrepair; or
- c. Left in a state of partial construction beyond the valid timeframe of the permit.

(2) Abandoned or broken equipment; broken or discarded furniture and household appliances in visible yard areas.

(3) Building exteriors in a condition of deterioration or disrepair such that the condition causes measurable diminution of surrounding property values.

(4) Property exteriors with trash, litter, debris, packing boxes, lumber, construction material, solid waste, horticulture debris, salvage materials, appliances, machinery, equipment and any furniture, excluding furniture specifically designed for outdoor use. Failure to maintain the premises in a clean, safe and sanitary condition is a violation. The owner and operator shall keep that part of the exterior property subject to its control or occupancy in a clean and sanitary condition.

(5) Clotheslines visible from the street.

(6) Garbage and trash containers stored in a manner visible from the street.

Article III

22.30 Demolition of commercial and residential buildings.

(a) A building in any zoning district may be demolished by the owner provided that the following requirements are met:

- (1) A demolition permit from the city manager shall be obtained.
- (2) All sewer, gas, water and similar taps or connections shall be properly closed and disconnected in compliance with the regulations of the appropriate utility.
- (3) All debris and litter 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 materials, debris, holes and depressions. Where building debris such as foundations remain on the site below street level, the owner shall backfill the lot with 12 inches of clean fill, which shall be graded to a smooth, even, finished grade.
- (5) Where walls of adjacent buildings or a portion of existing buildings become exposed as a result of the demolition, all doors, windows, vents or other similar openings in the remaining walls shall be closed with material of the type composing the wall. No protrusions or loose material shall remain. The exposed wall shall be painted, stuccoed or bricked and weather-proofed to prevent deterioration of the wall and in a manner compatible with the remaining building.

(b) Prior to issuance of a demolition permit for a building where commercial activity is a permitted use, a performance bond or equivalent security shall be filed with the city, payable to the city, in the amount defined in subsections (b)(1) and (2) of this section. The performance bond or equivalent security shall be in a form acceptable to the city's attorney and shall be in an amount which is 115 percent of the cost estimate. The performance bond or equivalent security amount shall be based upon a certification by the contractor of the following:

- (1) Total demolition: The amount to demolish the building, and remove all debris from the site, and disposal cost for the debris and grading the lot in compliance with the land development code; or
- (2) Partial demolition: The amount to demolish the building, and remove all debris from the site, and disposal cost for the debris, grading the lot and the cost of additional construction or reconstruction so the exterior of any partially demolished building or building abutting an adjacent building that results in repair or reconstruction is in compliance with subsection (a) above.

(c) Where buildings in any zoning district are destroyed by fire, disaster or other acts of God, the requirements of this section shall apply.

22.31 Construction site management.

(a) **Construction site management plan required.** No building permit shall be issued unless a construction site management plan has been submitted and approved by the building official. Persons who intend to make any of the following improvements: lot clearing, grading, stockpiling of soil, demolition, building construction or reconstruction, building alteration or addition, shall designate either a licensed contractor or owner-builder for the purposes of the construction site management requirements. These requirements set minimum standards for the operation of the project site to eliminate or minimize impacts to the site and to the neighborhood to include containment of sediment, surface water discharge, erosion of soil, vehicle parking and loading area, traffic control, fencing, placement of materials, safety, neatness and cleanliness.

Construction site management plans are not required for single family residential developments, unless the building official makes a determination in the building officials sole discretion, that a construction site management plan is required to eliminate or minimize impacts to the site and or the neighborhood.

(b) **Submittal requirements.** The contractor shall submit a construction site management plan with a building permit application which includes the following submittal requirements unless waived by the building official:

- (1) Location of proposed demolition.
- (2) Grading and drainage surface water management plan for street and project site, including:
 - a. Drainage plan during construction in compliance with subsection (d) of this section.
 - b. Final grading and drainage plan upon completion of construction for the street and project site in compliance with section 16-114 and subsections (d)(4) and (5) of this section.
- (3) **Parking plan, including:**
 - a. Location of on-site and adjacent unpaved portion of the right-of-way parking and the maximum number of vehicles that will be parked along the unpaved portion of the right-of-way.
 - b. Off-site parking plan in compliance with subsection (e)(4) of this section and the following:
 1. A single access with dimensions;
 2. Buffering for adjacent waterways and streets, as approved by the building official;
 3. A temporary fence location, height and type of fence with screening;
 4. Narrative describing restoration of the lot and hours of operation.
 - c. Copy of city right-of-way permit for parking in right-of-way.
- (4) Fencing plan, showing location, height and type of fence with screening or evidence that proposed construction does not warrant a construction fence in compliance with subsection (h) of this section as determined by the building official.
- (5) Location of construction trailers, loading/unloading area and material storage area.
- (6) Location of chemical toilets.
- (7) Location of dumpster.
- (8) Traffic control plan, including access with dimensions, area to be stabilized and a written plan on staging of construction related traffic during final phase of project including adequate parking (both on and off-site) and plan for delivery of materials.
- (9) Location of any trees located within the public right-of-way that will be removed. (Removal of trees owned by the city is prohibited unless written approval from the city manager is provided.
- (10) Other activities, where special conditions are identified by the building official.

(c) **Approval of plan; waivers.** The building official shall review, approve or deny the construction site management plan. The building official is hereby authorized to grant waivers from submittal requirements and corresponding standards which shall be reflected on the construction site management plan:

- (1) If the requirement is unrelated to proposed development;
- (2) If the impact of the proposed development is negligible in that submittal requirement area; or
- (3) If unusual site conditions do not allow full compliance with this section.

(d) **Grading plan; grading and surface water management standards.**

- (1) **Grading.** The site shall be graded and maintained during construction in accordance with SID's standards:
 - a. To prevent erosion of soil; and

- b. To control surface water discharge so that no water in excess of pre-construction discharge flows onto abutting property; and
 - c. To prevent accumulation of stagnant water for the duration of construction.
- (2) **Sediment fence.** The contractor shall install a sediment fence to protect adjacent properties, including lakes, canals and all other waterways, from discharges of soil, sediment, or construction-related material from the site unless a waiver is obtained from the building official.
- (3) **Maintenance.** The contractor shall inspect and maintain all erosion and sediment control practices until construction is complete and the construction site is stabilized. A fence installed to maintain sediment control shall remain in an upright condition until final electrical inspection.
- (4) **Final grading.** Final grading of the site shall be in compliance with the construction site management plan. The design shall ensure that no surface water in excess of the pre-construction amount shall flow onto abutting or adjacent properties. The design shall also ensure that the discharge of surface waters shall be off-site into an approved stormwater system.
- (5) **Surface water.** Surface waters, including dewatering, shall be directed into an on-site settling basin or otherwise filtered before discharged off-site. Off-site discharge shall be directed to an approved surface water management system during construction and upon final grading of the project site. The contractor shall be responsible for removal of any silt, debris, and dirt that accumulates within the SID's stormwater management system, including swales, stormwater retention lakes, ponds, canals and waterways. Discharges of sediment into waters in the State of Florida is a violation of water quality and may result in enforcement action by the South Florida Water Management District, the state department of environmental protection or the City. Discharge of water from swimming pools under construction or completed into ponds, lakes, canals and waterways is prohibited.
- (e) **Parking during development of project.**
- (1) **Parking on-site.** The owner or contractor shall provide for parking on the project site to the greatest degree possible. Alternative parking sites may include the abutting paved portion of the right-of-way, adjacent vacant lot or offsite parking lots in the immediate area as approved in the construction site management plan.
- (2) **Access.** Use of the any right-of-way for access to and from the project site as shown on the construction site management plan shall be strictly managed by the contractor. The contractor shall maintain the public street adjacent to the project site free of dirt, sand or any other debris resulting from construction activities. The any right-of-way adjacent to the project site shall be broom swept on a regular basis keeping it free of dirt, sand and other debris. Failure to remove said material on the day of occurrence is a violation.
- (3) **Temporary graveled or stabilized area for construction access and parking.** The contractor shall provide a graveled or stabilized area as shown in the construction site management plan. The stabilized area shall be located at points where vehicles enter and exit the construction site and the parking location. When a right-of-way area is used for parking, the contractor shall provide a graveled or stabilized area on the right-of-way. Upon completion of the project, the contractor shall restore the right-of-way to its original condition or better. The purpose of the graveled or stabilized area at the entrance to the project site is to eliminate and reduce tracking or flow of sand, mud, concrete wash or other related material onto the right-of-way.
- (4) **Parking in the right-of-way.** If the construction site requires the placement of equipment or materials on the paved portion of a right-of-way at any time during the construction, City or SID right-of-way permit is required.

(5) **Deliveries.** A construction site supervisor must be present whenever deliveries occur in the paved portion of the right-of-way to ensure that vehicles do not unreasonably obstruct vehicular traffic. Delivery of material that obstructs a roadway shall be limited to one vehicle at a time. The owner and contractor shall assume responsibility for any damage to the public right-of-way, sidewalk, roadway, and trees and take steps to correct the damage immediately.

(6) **Off-site parking.** The building official may temporarily permit off-site parking on vacant lots other than the project site with the written permission of the owner of the lot where the vehicles are to be parked and in compliance with the following standards:

- a. Compliance with the construction site management plan.
- b. The lot shall be used for parking only.
- c. There shall be no storage of materials, trailers or construction equipment.
- d. There shall be no loading and unloading of materials or machinery.
- e. The lot shall remain free of debris or trash.
- f. A temporary six-foot chain link fence with a single color fabric, either black or green, or other screening materials as approved by the building official shall be located at the front, side, and rear lot line of the temporary parking area except where a lot line is located on the water. Where a lot line is along the water, the fence shall be placed no closer to the water than the yard setback line and shall not exceed three feet in height. The fence gate shall remain locked during non-working hours. The fencing shall remain on-site until the off-site parking is no longer needed to complete the project site and shall be removed prior to issuance of a certificate of occupancy for the project site.

(g) **Material storage.** Material associated with the project site, including, shall be neatly stored on the site (within the fenced area when applicable). The storage of material shall not obstruct access to the structure under construction or create a public safety hazard. All loading or unloading of materials and/or equipment is limited to the construction site and right-of-way in compliance with this chapter (section (o)).

(h) **Construction fencing.** A project site which requires clearing, grading, stockpiling of materials, demolition, or construction shall have a construction fence. This requirement shall not apply to single family residential development.

- (1) The fence shall be a six-foot chain link fence with a green or black fabric.
- (2) The fence shall remain in place, upright and in good repair, throughout the period of construction activity and shall be removed when construction is completed.
- (3) The fence shall be installed along the side and rear lot lines (and along one of the two front yards of corner lots).
- (4) For properties located in the residential, mixed use or commercial zoning districts, the fence shall be installed along the front, side and rear lot lines.
- (5) **Fence Removal.** Fencing may be removed upon final grading and landscaping of the site or upon installation of an approved permanent fence or wall.

(6) **Major remodeling.** Major remodeling shall mean an increase in the building volume of 10,000 cubic feet or more, an increase in the building footprint of 1,000 square feet or more or new construction with a building footprint of 1,000 square feet or more. A construction fence is required for major remodeling as follows:

- a. A lot located in the residential, mixed use or commercial zoning districts shall contain a fence on the front, side and rear lot lines. Fencing may be removed upon

final grading and landscaping or upon replacement with a permanent fence or wall;

b. All other lots shall contain a fence on the side and rear lot lines. Fencing may be removed upon final grading and landscaping or upon replacement with a permanent fence or wall.

(7) **Major alteration.** Major alteration shall mean a change of 50 percent or more of the gross square footage of an existing structure for reconstruction, rehabilitation, removal of walls, or other improvement excluding replacement of the roof. A construction fence is required for major alteration as follows:

a. A lot located in the residential, mixed use or commercial zoning districts shall contain a fence on the front, side, and rear lot lines. Fencing may be removed upon final electrical inspection.

b. All other lots shall contain a fence on the side and rear lot lines. Fencing may be removed upon final grading and landscaping or upon replacement with a permanent fence or wall.

(8) Exception from six-foot height requirement where a construction fence is required and the property line is located on the water in any residential zoning district, that portion of the construction fence along the water may be reduced to three feet in height within the required yard along the waterfront.

(9) **Exception to installation of construction fence.** Where a construction fence would be required for a residential lot pursuant to subsection (1)b., (2)b. or (3)b. above and the owner or contractor obtains a construction fence waiver from the owner of the property that abuts the project site, the building official may waive the requirement for all or a portion of the construction fence but retains the right to require a construction fence at any time. The three-foot sediment fence will still be required.

(10) **Installation.** Installation of a construction fence shall occur prior to any construction activity or material deliveries. The fence shall not be placed so as to create a public safety hazard. Where the project site is enclosed by a fence, the fence gate shall be locked during non-working hours.

(h) **Signs.** A 12-inch by 18-inch sign shall be posted by the contractor on the project site in the location approved on the construction site management plan which is readable from the street. The sign shall contain the street address of the property, phone number for the City of Westlake and the name and phone number of the general contractor. The sign is exempt from section 7.10(b). This sign shall be maintained in a readable condition until completion of construction.

(1) The sign shall be located on the project property and shall be removed upon completion of the project.

(i) **Site cleanliness.** The owner or contractor shall have the entire construction site clean and free of debris at all times. Clean for purposes of this section means, without limitation, removal and placement into a dumpster of scrap lumber, concrete remnants and roof tile from the project site. The project site shall be free of all loose debris such as cans, metal, plastic and paper.

(j) **Temporary trailers.** When a temporary construction trailer is proposed and a construction fence is required, it shall be located on the project site within the fence at the location shown on the construction site management plan. No other trailers shall be

parked on the right-of-way during the time of day in which construction is not permitted, nor shall they be parked on the unpaved portion of a right-of-way so as to obstruct the line of sight at intersections.

(k) **Chemical toilets.** Chemical toilets shall be located inside the project fence and accessible for servicing. Where a fence is not required, the contractor shall locate the chemical toilet facing towards the rear of the project site and no further than 15 feet from the structure under construction except where another location has been authorized by the building official due to the size of the lot and ease of access to the chemical toilet.

(l) **Landscaping.** Damage to any landscaping on an abutting or adjacent property as a result of the construction shall be replaced and restored at the contractor's expense to its original condition. Failure to replace and repair is a violation.

(m) **Dumpsters.** Construction site dumpsters shall be located inside the fence. Where a fence is not required, it shall be located on the project site. The dumpster shall be emptied in a timely fashion so there is no overflow of debris or litter. Prior to a certificate of occupancy being issued, the dumpster shall be removed from the site.

(n) **Permitted days and hours for construction work.** The erection (including excavation), demolition, alteration or repair of any building or delivery of materials other than at the following times is prohibited. Such work must be accomplished on Monday through Saturday. No work may be conducted on New Year's Day, Memorial Day, July 4th, Labor Day, Thanksgiving Day and Christmas Day.

(1) In residential areas: 7:00 a.m. to 7:00 p.m.

(2) In nonresidential areas: 6:30 a.m. to 7:00 p.m.

a. **Special construction activities.** Pile driving and steel erection activity shall be limited to Monday through Friday, excluding federal holidays, during the hours between 8:00 a.m. in the morning until 4:00 p.m. in the evening. Demolition activity shall be limited to Monday through Friday, excluding federal holidays, during scheduled work hours between 8:00 a.m. in the morning and 6:00 p.m. in the evening. Auger cast and hydraulic boring are excluded from this limitation.

b. **Permit for work during prohibited hours.** Any person may apply to the City Manager for a permit to operate during the hours or days prohibited under this section. If the City Manager or his designee shall determine that substantial loss or substantial inconvenience would result to any party in interest, and that the public health and safety will not be impaired by such operation, a permit may be issued which would allow work to occur during hours or days otherwise prohibited by this subsection. Notice of permit approval shall be provided by the city to adjacent property owners. The permit shall not exceed three days in duration, but may be renewed from time to time for a like period so long as the circumstances described in this subsection exist.

c. **Emergency and special types of construction.** Where ordinary and necessary trade or engineering practices or an emergency require the continuous operation of pumps, well points, dredges, draglines and other machinery of a like nature during the otherwise prohibited hours, a permit shall be required and such operation shall not constitute a violation of this subsection. It is not the intent of this subsection to require poor or wasteful engineering or building practices in order to comply herewith.

(o) **Construction-related traffic control.** A contractor, owner, vehicle operator or any person associated with the project site who impedes or obstructs the any right-of-way; or who parks, loads, unloads, or carries on any related activity on the public right-of-way shall also be in violation of this section unless such actions are consistent with an exception contained in section 36-93 of this Code. The construction is subject to a stop work order and the permit is subject to suspension or revocation, in addition to any other remedy and/or penalties available at law to the City.

(p) **Requirements during weather emergency.** It is the responsibility of the owner and contractor to have removed construction materials from the project site or secured construction materials at the project site at least 48 hours prior to the predicted landfall of a tropical storm or hurricane until the time set forth in subsection (7) below.

(1) **Applicability.** At least 48 hours prior to the predicted landfall of a tropical storm or hurricane for any portion of Palm Beach County Florida, as determined by the National Weather Service, National Hurricane Center or appropriate weather agency or as provided in the city's emergency plan; or upon order of the building official in anticipation of a storm emergency; all construction materials, including roof tiles, on all project sites within the city shall be secured and stored onsite in a safe manner or removed so that no material can become a safety hazard with hurricane or tropical storm force winds.

(2) **Notice.** Media broadcasts or notices issued by the National Weather Service or National Hurricane Center of an approaching tropical storm or a hurricane is hereby deemed notice to the owner or contractor. The owner and contractor are responsible for the project site by securing on-site or removing from the site any construction materials or debris to protect against the effect of hurricane or tropical storm force winds. By holding a building permit during hurricane season, the contractor shall monitor the National Weather Service and the National Hurricane Center for weather emergencies.

(3) **Inspection.** A pre-storm inspection shall be required for all active construction sites involving exterior work and/or exterior storage of materials. The owner and contractor shall be responsible for insuring that the construction site has passed inspection prior to the issuance of a tropical storm warning or hurricane warning. The owner or contractor shall be available by phone until the site has passed the pre-storm inspection. Failure to properly secure a job site and pass inspection will be considered a violation of this ordinance. The city may recover as costs of repairs or compliance, the costs associated with securing job sites that have not complied with this section in addition to any fines imposed by the Special Magistrate. And such costs shall constitute a lien on the property.

(4) **Materials stockpiled on site.** Materials stockpiled on any construction site shall be handled as follows:

- a. Band construction materials together and fasten them to the structure in such a manner to prevent the material from becoming airborne during a tropical storm or hurricane; or
- b. Remove construction materials from the top of the structure and secure them to the ground; or
- c. Remove construction materials from the project site; or

d. Store construction materials inside a structure if said structure is secure from tropical or hurricane force wind loads.

(5) The contents of construction site dumpsters must be removed or weighted and secured with rope, mesh or other durable, wind resistant material.

(6) Portable toilets shall be secured to the structure, dumpster or emptied and laid horizontal and secured to the ground.

(7) During the National Weather Service designated hurricane season, building or roofing materials shall not be loaded on a roof earlier than ten working days prior to the permanent installation of the materials.

(8) Material capable of becoming airborne. Construction materials, debris or any material capable of becoming airborne shall remain secured and stored on the project site or shall be removed from the project site until the National Weather Service, National Hurricane Center, or the city through local action has removed all persons of the city from those areas included in a tropical storm warning or hurricane warning. Contractors shall not resume construction on any construction site until the site is brought into compliance with the construction site management plan.

22.32 Designation of administrator; inspections; right of entry.

(a) It shall be the duty and responsibility of the building official to enforce this chapter and to proceed against each and every person found in violation of the requirements of this chapter.

(b) All inspections, regulations and enforcement of violations of the provisions of this chapter, unless expressly stated to the contrary, shall be under the direction and supervision of the building official.

(c) Whenever necessary to make an inspection to enforce any of the provisions of this chapter, or whenever the building official has reasonable cause to believe that there exists in any building or upon any premises any condition or code violation which makes such building, structure, premises, electrical, gas, mechanical or plumbing systems unsafe, dangerous or hazardous, the building official may enter such building, structure or premises at all lawful times to inspect the same or to perform any duty imposed upon the building official by this chapter. If such building or premises are occupied, the building official shall first present proper credentials and request entry. If such building, structure, or premises are unoccupied, the building official shall first make a reasonable effort to locate the owner or other persons having charge or control of such and request entry. If entry is refused, the building official shall have recourse to every remedy provided by law to secure entry.

(d) When the building official shall have first obtained a proper inspection warrant or other remedy provided by law to secure entry, no owner or occupant or any other persons having charge, care or control of any building, structure, or premises shall fail or neglect, after proper request is made as herein provided, to promptly permit entry therein by the building official for the purpose of inspection and examination pursuant to this chapter.

22.33 Violations; penalty.

(a) Penalty. Any person, firm, owner, contractor or agent who violates or fails to comply with any provision of this chapter shall be subject to the enforcement procedures and penalties set forth in Chapter 9, entitled Code Compliance.

(b) Stop work order; order to abate. Additionally, where a violation relates to any construction or condition for which a permit has been issued, or is subject to issuance, the violation may be enforced by the building official or designee through the issuance of a stop work order in accordance with the procedures set forth in the Florida Building Code; or an order to repair, restore or demolish the work, to vacate the premises, or otherwise to abate the violation enforceable.

(c) Nuisance. Any violation of this chapter is subject to abatement as a public nuisance.

(d) Chapter provisions. The provisions of this Chapter are cumulative with and in addition to any other remedy provided by law.

22.34 Pollution Control:

F.S. § 403.182 authorizes each municipality to administer and establish local pollution control programs in compliance with F.S. ch. 403 and provides among other things that the local pollution control programs must provide by ordinance requirements compatible with or stricter than those imposed by F.S. ch. 403, and the regulations issued thereunder.

(b) It is declared to be the public policy of the city and the purpose of this section to achieve and maintain the levels of air quality that will protect human health and safety, to the greatest degree practicable, prevent injury to plant and animal life, foster and protect the comfort and convenience of the people, promote the economic and social development of the community and facilitate the enjoyment of the natural attributes of this community.

22.35 - Prohibited on Public Streets and Sidewalks:

It shall be unlawful for the owner or occupant of any building, structure, or premises in the city to cause, allow or permit any smoke, dust, steam, odors, fumes, liquids, or other obnoxious matter or things to emanate therefrom over and upon any public street or sidewalk in the city, unless the same shall be so deflected away from persons using the streets or sidewalks as not to annoy, vex, irk, or bother persons in the use thereof.

(a) Any vents, exhaust fans, pipes, flues, or other appurtenances or parts of any building or structure, including those heretofore or hereafter installed or constructed, shall not be used or permitted to be used unless and until the same shall have been so remodeled, reconstructed, erected, or installed in a way that smoke, dust, steam, odors, fumes, fluids, or other obnoxious matters or things thereby discharged into the air and toward the ground shall be directed and deflected away from persons using the city's public streets and sidewalks in a manner as not to annoy, vex, irk, or bother.

Article IV

22.50 – Noise and Inoperable Vehicles

22.51 - Shouting and yelling.

From 10:00 p.m. on each day from Sunday through Thursday through 7:00 a.m. on the next day, from 12:00 a.m. on Friday through 7:00 a.m. on Saturday, and from 12:00 a.m. on Saturday through 12:00 noon on Sunday, no person on property within a residential district or a conservation district within the city shall yell, shout, or otherwise verbally create noise, either individually or in concert with other persons at the same time and place, that can be heard at a distance of more than seventy-five feet from the boundary line of such property.

22.52 Loudspeakers, amplifiers, and sound trucks.

(a) No person shall, either as principal, agent, or employee, play, use, or operate for any purpose whatsoever, on or upon the public streets, alleys, parks, or thoroughfares in the city, any device known as a sound truck, loudspeaker, or sound amplifier, or any other electronic or mechanical device with a loudspeaker or sound amplifier, or any other instrument known as a calliope, which is attached to or located upon any vehicle or other device, equipment, or mechanism capable of moving or being moved upon the streets or public places of the city and which emits noise intended to be heard by persons other

than those occupying the vehicle or other device, equipment, or mechanism on which such loudspeaker, sound amplifier, or other instrument is attached or located.

(b) An exception to the provisions of this section may be permitted for public or charitable purposes after written permission for same is granted by the city, provided that use shall not be permitted before 7:00 a.m. or after 7:00 p.m. and use shall not be permitted within 1/2 mile of any hospital nor within 1/2 mile of any school or church while it is in session.

22.53 Distribution restricted.

It shall be unlawful for any person to distribute or give out any handbills, tickets, samples, or merchandise or other kind of advertising matter, unless the person is a licensed billposting agency. However, this section shall not be construed to prevent persons from distributing advertisements of their own business through the United States mail.

22.54 Placement in automobiles, private yards, etc., prohibited.

It shall be unlawful for any person to give to another or attempt to give to another any handbill, ticket, sample, or other advertising matter upon any public street, alley, park, or other public way or place within the city, or to pass the same from private property to any person on any street, alley, park, or other public way or place, or to place the advertising matter in any automobile belonging to another within the corporate limits of the city, or to throw or leave the same in any private yard or upon private property so that the same may be blown or scattered upon private or public property.

(1) **Litter Compliance Officers:** Pursuant to the provisions of Section 403.413, Florida Statutes, the "Florida Litter Law," the code compliance officers are designated as litter compliance officers of the City, for the purposes of enforcing Section 403.413, Florida Statutes. Such designated code compliance officers are appointed as litter enforcement officers.

22.55 Nuisance Declared.

The allowing of an inoperable motor vehicle to remain on private property outside of a garage or carport for a continuous period of fifteen days or more shall be declared a public nuisance. The only exceptions shall be when such vehicle is located on the premises of a duly licensed garage or repair facility and/or a junk yard which is in conformance with the zoning regulations. Prima facie evidence of such public nuisance shall be lack of display of the state current license plate on the vehicle, lack of engine in vehicle or parts missing therefrom and conditions causing vehicle to be inoperable; such as, vehicle damaged or flat tire.

22.56 Abandoned Property on Public Property

22.57 Duty of police; notification; prima facie evidence.

(a) When any personal property which is not covered by the procedure required in F.S. § 705.101 et seq. shall remain upon any public street or other public way, public park, or other public grounds of the city for a continuous period of 48 hours or more, that personal property shall be taken possession of by the City Manager, Code Compliance Officer, or their designee and stored at some convenient place. If the owner of the personal property is known, he shall at once be notified that the personal property is in the custody of the City and directed to repossess that personal property.

(b) The leaving of any personal property on any public street or other public way, park, or other public place within the city for a continuous period of 48 hours shall be prima facie evidence that the personal property has been abandoned.

22.58 Sale of property; certificate of sale.

(a) If the residence or address of the owner or any person holding a lien upon the personal property coming under this division cannot be ascertained, or if the owner or person holding a lien upon the

personal property fails to take possession of the personal property within ten days after the mailing of notice hereinbefore provided for, the personal property shall be sold at public outcry by the City Manager at some place within the city, but, prior to the sale, a notice of the sale shall be posted in three conspicuous places in the city at least ten days prior to the date of sale. The notice shall give the time and place of sale and describe the personal property to be sold. A copy of the notice shall be mailed to the owner and each person holding a lien on the personal property, if their address is known, at least ten days before the date of the sale. The city shall not guarantee title to the personal property or to deliver a title of ownership, but shall furnish the purchaser a certificate in substantially the following form.

Certificate No. _____

CERTIFICATE OF SALE
CITY OF WESTLAKE, FLORIDA

THIS IS TO CERTIFY that the following described personal property was abandoned in the City of Westlake, Florida, and was placed in the custody of the City Manager, where it was held for 20 days, after which time, it having been impossible to find the owner of the same, or found he failed to repossess same, this personal property was sold to the highest bidder after legal advertisement.

This Certificate of Sale is therefore issued to _____, residing at _____

DESCRIPTION OF PROPERTY _____

MAKE _____

YEAR _____

ENGINE NO. OR I.D. NO. _____

CHASSIS NO. _____

DATED AT WESTLAKE, FLORIDA, THIS _____ DAY OF _____, 20____

City Manager

This form to be in duplicate, the original given to the purchaser and the duplicate bound in a book.

22.59 Repossession by owner.

The owner or any person having a lien upon the personal property may take possession of same at any time prior to the sale, provided for in _____ but that person shall reimburse the city for all reasonable expenses for storage, advertising, or other expense incurred in connection therewith.

22.60 Disposition of proceeds of sale.

(a) If any personal property shall be sold as above provided, the proceeds of the sale after paying all the costs actually expended for advertising or otherwise in the sale shall be deposited in the general fund of the city. In addition to the expense actually incurred, the city shall be allowed five percent on the gross receipts of the sale as compensation for caring for the property and making the sale, which amount shall also be paid into the general fund of the city.

(b) The proceeds of any sale paid into the general fund shall not be expended or disbursed for 90 days after the date of the sale, and at any time during that period the owner or any person having an interest in the personal property may, upon making proof of the ownership or interest, recover back from the fund the proceeds of the sale, less five percent as provided by subsection (a) of this section plus all the expenses of caring for the personal property, advertising, and making the sale.

22.61 Penalty.

(a) In accordance with section and F.S. § 162.09, the code compliance board of the city is hereby granted jurisdiction for enforcement of section and shall have the power to impose a fine in the maximum sum of \$250.00 per day for a first violation and a maximum fine of \$400.00 per day for a repeat violation.

(b) Whoever violates any provisions of this Chapter for which another penalty is not already otherwise provided, shall be subject to the penalty provisions set forth in.

Section 3. Conflicts Clause:

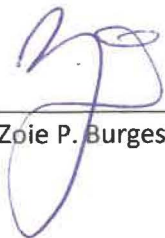
Section 4. Severability: Should the provisions of this ordinance be declared to be severable and if any section, sentence, clause or phrase of this ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this ordinance but they shall remain in effect, it being the legislative intent that this ordinance shall remain notwithstanding the invalidity of any part.

Section 5. Codification: It is the intention of the City Council, and it is hereby ordained that the provisions of this ordinance, entitled "**Property Maintenance**" shall become and be made a part of the Code of Ordinances for the City of Westlake, Florida and the sections of this ordinance may be re-numbered or re-lettered to accomplish such intentions, and the word "ordinance" shall be changed to "section" or other appropriate word.

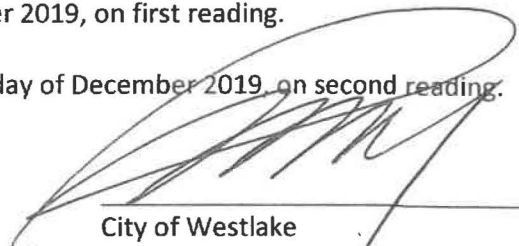
Section 6. Effective Date: This ordinance shall be effective upon adoption on second reading.

PASSED this 4th day of November 2019, on first reading.

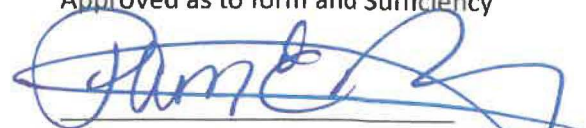
PASSED AND ADOPTED this 9th day of December 2019, on second reading.



Zoie P. Burgess, City Clerk



City of Westlake
Roger Manning, Mayor

Approved as to form and Sufficiency


Pam E. Booker, City Attorney