

**AN ORDINANCE PROVIDING FOR THE REGULATION OF PROPERTY  
MAINTENANCE IN THE TOWNSHIP OF WEST CALDWELL**

**Chapter 15, PROPERTY MAINTENANCE**

[HISTORY: Adopted by the Governing Body of the Township of West Caldwell 12/02/03 by Ord. No. 1508.]

**§ 15-1. Title.**

This article shall be known as the “Property Maintenance Code” of the Township of West Caldwell.

**§ 15-2. Findings; declaration of policy.**

It is hereby found and determined that there exist in the Township of West Caldwell structures used for residential and nonresidential use which are, or may become in the future, substandard with respect to structure, equipment or maintenance. It is further found that conditions of the above-described property, including but not limited to structural deterioration, lack of maintenance and appearance of the exterior of premises, infestation, lack of essential heating, plumbing, storage of refrigeration equipment, lack of maintenance or upkeep of essential utilities and facilities, existence of fire hazards, inadequate provisions for light and air, unsanitary conditions and overcrowding, constitute a menace to the health, safety, morals, welfare and reasonable comfort of the citizens and inhabitants of the Township of West Caldwell. The Governing Body of the Township of West Caldwell further finds and declares that, by reason of lack of maintenance and the existence of progressive deterioration, certain properties have the further effect and/or the further potential effect of creating blighted conditions that, if the same are not curtailed and/or removed, the aforesaid conditions will grow and spread and will necessitate in time the expenditure of large amounts of public funds to correct and eliminate the same and that, by reason of timely regulation and restrictions as herein contained, the growth of depressed areas, and blight may be prevented. It is further found that such prevention will maintain neighborhood and property values, as well as the desirability and amenities of residential and non residential uses; and it is further found that such prevention will protect and foster the public health, safety and welfare.

**§ 15-3. Purposes.**

The purposes of this Property Maintenance Code are as follows:

- a. To protect the public health, safety and welfare of the citizens of West Caldwell by establishing minimum standards governing the maintenance, appearance, conditions and occupancy of property.

- b. To establish and authorize procedures for the enforcement of this code.
- c. To fix certain responsibilities and duties upon owners, tenants and operators and distinct and separate responsibilities and duties upon occupants; to authorize and establish procedures for the inspection of residential and nonresidential premises.
- d. To fix penalties for the violations of this code.

#### **§ 15-4. Definitions.**

The following terms, wherever used herein or referred to in this code, shall have the respected meanings assigned to them, unless a different meaning clearly appears from the context. All definitions of the Building Officials and Code Administrators International (“BOCA”) Basic Building Code are hereby included.

**DETERIORATION** -- The condition of a building or structure or part thereof characterized by holes, breaks, rot, crumbling, cracking, peeling, rusting or other evidence of physical decay or neglect, lack of maintenance or excessive use.

**EXCESSIVE** – Greater than what is usual or proper.

**EXPOSED TO PUBLIC VIEW** -- Any premises or any part thereof of any building or structure or any part thereof which may be lawfully viewed by the public or any member thereof.

**EXTERIOR OF THE PREMISES** -- Open space on the premises outside of any building located thereon.

**EXTERMINATION** -- The control and elimination of insects, rodents and vermin.

**GARBAGE** -- Putrescible and vegetable waste resulting from the handling, preparation, cooking and/or consumption of food. (See also “refuse” and “rubbish.”)

**HABITABLE ROOMS** -- Rooms used or designed for use by one or more persons for living or sleeping or cooking and eating, including garages beneath such rooms, but not including bathrooms, water-closet compartments, home laundries, serving and storage pantries, corridors, foyers, vestibules, cellars, heater rooms, boiler rooms or utility rooms. Other rooms or spaces that are not used or have less than 50 square feet of interior floor area shall not be considered as habitable rooms.

**INFESTATION** -- The presence of insects, rodents, vermin or other pests on the premises which constitute a health hazard either to the occupants of the premises and/or to surrounding properties and/or residents.

**MIXED OCCUPANCY** -- Any building containing one or more dwelling units or rooming units and also having a portion thereof devoted to non-dwelling uses.

## NUISANCE

- a. Any public nuisance recognized in common law or in equity jurisprudence or as provided by the statutes of the State of New Jersey or the ordinances of the Township of West Caldwell.
- b. Any attractive nuisance which may prove detrimental to the health and/or safety of children, whether in a building, on the exterior of premises or upon an unoccupied lot. Attractive nuisances include but are not limited to: abandoned wells, shafts, basements, excavations, abandoned swimming pools, abandoned ice boxes, freezers and/or refrigerators, motor vehicles, campers any structurally unsound fences or structures, lumber, trash, broken window glass, fences, debris or vegetation such as poison ivy, oak or sumac which may prove hazardous for inquisitive minors.
- c. Physical conditions dangerous to human life or detrimental to the health of persons on or near the premises where the conditions exist.
- d. Overcrowding of a room with occupants in violation of the New Jersey State Fire Code and local ordinances.
- e. Inadequate or unsanitary sewage or plumbing facilities in violation of this code.
- f. Unsanitary conditions or anything offensive to the senses or dangerous to health in violation of this code.
- g. Whatever renders air, food or drink unwholesome or detrimental to the health of human beings.
- h. Fire hazards, which shall include but not be limited to the maintenance and/or storage of combustible materials or flammable chemicals and/or the maintenance of an uncontrolled open fire.

**OPERATOR** -- Any person who has charge, care or control of a dwelling or premises or any part thereof, whether with or without the knowledge and consent of the owner.

**OWNER** -- Any person who, alone or jointly or severally with others, shall have legal or equitable title to any premises, with or without accompanying actual possession thereof, or who shall have charge, care or control of any dwelling unit as owner or agent of the owner or as executor, executrix, administrator, administrative trustee, receiver or guardian of the estate or as a mortgagee in possession, regardless of how such possession was obtained. Any person who is a lessee subletting or assigning any part of any dwelling or dwelling unit shall be deemed to be a co-owner with the lessor and shall have joint responsibility over the portion of the premises sublet or assigned by said lessee.

**PARTNERS IN INTEREST** -- All individuals, associations and corporations who have interest of record in a building or premises and any who are in actual possession thereof.

PREMISES -- A lot, or parcel of land, including the buildings or structures thereof.

PUBLIC OFFICER -- Any officer who is in charge of any department or branch of the government of the Township of West Caldwell, County of Essex or State of New Jersey, relating to health, fire, building regulations or to other activities concerning buildings in the Township. Includes but is not limited to Township Administrator, Code Enforcement Official, Police Chief, Fire Chief, Fire Code Official, Director of Public Works, Zoning Officer, Building Sub-Code Official and any other Construction Code Official.

REFUSE -- All putrescible and nonputrescible solid waste (except body waste), including but not limited to garbage, rubbish, ashes, street cleanings, dead animals, abandoned vehicles and solid market and industrial wastes. (See also “garbage” and “rubbish.”)

RUBBISH -- Nonputrescible solid waste consisting of both combustible and noncombustible wastes, such as paper, wrappings, cigarettes, cardboard, tin cans, yard clippings, leaves, wood, glass, bedding, crockery and similar materials. (See also “garbage” and “refuse.”)

VEHICLE -- A machine propelled by other than human power, designed to travel along the ground by use of wheels, treads, runners or slides and to transport persons or property or pull machinery, including an automobile, truck, trailer, motorcycle, camper, tractor, buggy, wagon, lawn mower, snow and/or leaf blower and boats.

**§15-5. Effect on other ordinances and regulations.**

Nothing in this article shall be construed to abrogate or impair the powers of the Township of West Caldwell to enforce any provisions of its ordinances or regulations or prevent or punish violations thereof, and the power conferred by this article shall be in addition to and supplemental to the powers conferred by any other law or ordinance.

**§15-6. Multiple dwellings.**

a. The term “multiple dwelling” shall have the same meaning as set forth at length in N.J.S.A. 55:13A-3(k), and the aforesaid definition of “multiple dwelling” is incorporated herein by reference.

b. Property maintenance for multiple dwellings shall be regulated and governed by the Regulations for Maintenance of Hotels and Multiple Dwellings, N.J.A.C. 5:10-1, 1 et seq., which regulations are hereby adopted by the Township of West Caldwell and incorporated herein by reference.

c. Copies of the Regulations for Maintenance of Hotels and Multiple Dwellings shall be on file in the offices of the Township Clerk and the Board of Health and shall be available for inspection upon request.

d. The procedures governing the inspection of multiple dwellings and the enforcement of violations shall be as set forth in the Hotel and Multiple Dwelling Law, N.J.S.A. 55:13A-1 et

seq., and the Regulations for Maintenance of Hotels and Multiple Dwellings, N.J.A.C. 5:10-1.1 et seq.

**§15.7. Property other than multiple dwellings.**

a. All structures and premises in the Township of West Caldwell shall be kept free of all of the following conditions:

1. Broken glass, excessive brush, weeds, stumps and roots, obnoxious growth, filth, garbage, trash, refuse and debris.

2. Dead and dying trees, limbs or other natural growths which by reason of rotting, deteriorating conditions, storm damage or weathering constitute a hazard to persons in the vicinity thereof. Trees shall be kept pruned and trimmed to prevent such conditions.

3. Loose and overhanging objects and accumulations of ice and snow which by reason of location above ground level constitute a danger of falling on persons in the vicinity thereof.

4. Holes, excavations, breaks, projections, obstructions, icy conditions and other safety hazards of walks, driveways, parking lots, parking areas and other parts of the premises which are accessible to and used by persons on the premises. All such holes and excavations shall be filled and repaired, walks and steps replaced and other conditions removed where necessary to eliminate safety hazards or unsanitary conditions.

5. Sources of infestation or potential infestation by rodents, mosquitoes, flies and other harmful vermin.

b. The exterior of every structure or accessory structure, including fences, shall be maintained in good repair, and all surfaces thereof shall be kept painted and finished where necessary for purposes of preservation and appearance. The same shall be maintained free of broken glass, loose shingles, crumbling stone or brick, excessive peeling of paint or other conditions reflecting weathering, deterioration or inadequate maintenance, to the end that the property itself may be preserved, safety and fire hazards eliminated and adjoining properties in the neighborhood protected from blighting influences.

c. There shall not be stored or used, at a location visible from the sidewalk, streets or other public areas, equipment and materials relating to commercial or industrial uses, including, *inter alia*, commercial vehicles, snow plows and snow blowers, unless permitted under Chapter 20, Zoning, of this Code for the particular premises.

d. All brush, shrubs, grass and trees shall be maintained so as not to obstruct public access to specific sidewalks and roadways. Brush, shrubs and trees shall be kept trimmed so that they do not cross the line of the sidewalk from the ground to a height of seven feet. Poison ivy, poison sumac, poison oak and similar noxious vegetation shall be removed from the vicinity of any

public sidewalk or roadway. Lawn grass shall be trimmed and maintained so that it does not exceed a height of ten inches from the ground.

e. Receptacles for garbage and recyclables shall be stored out of the sight of the public. Occupants of corner lots shall store garbage and recyclables in the back yard. They may be stored in the garage and placed at the curb of Township roadways on the day of the regularly scheduled pickup.

f. All parts of the premises shall be kept in a clean and sanitary condition, free of nuisances and free of health, safety and fire hazards.

g. Adequate runoff drains shall be provided and maintained to eliminate any recurrent or excessive accumulations of stormwater.

**§15-8. Enforcing agent.**

The provisions of this article shall be enforced by the Construction Code Enforcement Official or his/her designated representative, who shall be referred to herein as the “enforcing agent.”

**§15-9. Enforcement procedure.**

a. Notice and hearing.

1. Where a violation of this chapter or the regulations hereunder is found to exist, a written notice from the Construction Code Official or his/her designated representative shall be served upon the owner, tenant or operator, who shall be responsible for correcting such condition. The notice shall contain the following:

- (i) An identification of the conditions constituting the violation.
- (ii) The necessary corrective actions.
- (iii) A reasonable time period, not to exceed 60 days, to correct or abate the violation.
- (iv) The right of the person in violation to request a hearing.
- (v) A statement that the notice shall become an order of the Construction Code Enforcement Official in 10 days after service, unless a hearing is requested, in writing, within that time period.

2. The notice may be served personally or by certified mail at the last known address of the owner, tenant or operator alleged to be in violation. Where it is ascertained that the owner, tenant or operator does not reside on the premises and the last known address cannot be ascertained, the notice may be posted on the outside front entrance of the affected building. Service upon any owner, tenant or operator may also be achieved by service of any notice upon a

member of the family of the owner, tenant or operator of the age of 14 years or over then residing at the residence of such owner or operator.

3. After 10 days from the date of service of the notice, the notice shall constitute a final order, unless any owner, tenant or operator alleged to be in violation requests a hearing thereon and serves a written request, in person or by certified mail, upon the Construction Code Enforcement Official for such hearing. The request for hearing shall state briefly the grounds or reasons on which the request for hearing is based and the factual matters contained in the notice of violation which are disputed by the person alleged to be in violation. **Appeals will be granted strictly on factual matters.** The Construction Code Enforcement Official, upon receipt of the request for hearing, within 30 days therefrom and within five days' notice to the party alleged to be in violation, shall set the matter down for a hearing before him or her.

4. At the hearing provided for herein, the Construction Code Enforcement Official shall consider all matters presented by the owner, tenant or operator alleged to be in violation, together with all other relevant evidence. Within 10 days from the date of the hearing, the Construction Code Enforcement Official shall either affirm the prior notice issued by him or her or modify such notice in any manner deemed appropriate by him or her and consistent with the provisions and enforcement of this section.

5. The Construction Code Enforcement Official may extend the time for correction and abatement of any violation of this section for an additional period of time not to exceed 30 days, except where major capital improvement or renovations are involved, in which case the time for completion may be extended for such a period of time as the Construction Code Enforcement Official may deem reasonable and adequate.

6. Any owner, tenant or operator who cannot reasonably comply with the provisions of this section may, upon receipt of the notice of determination pursuant to Subsection a(2), apply, in writing, to the Township Governing Body for a waiver of the provisions of this section.

b. Violations and penalties.

An owner, tenant or operator who violates this chapter by failure to comply with an order entered by the Construction Code Enforcement Official shall appear before the Municipal Judge for a hearing and/or imposition of fines, sanctions, sentence, or any combination thereof. A violation of this chapter shall be punishable by a fine not exceeding \$1,250, imprisonment for a term not exceeding 90 days or a period for community service not exceeding 90 days, or any combination thereof. Each violation of a different section of this chapter shall constitute a separate and distinct violation independent of any other section. Each day's failure to comply with any provision of this chapter shall constitute a separate violation.

**§ 15-10. Safety of Motorists and Pedestrians - Duty of owner, tenant or operator.**

The owner, tenant or operator of lands lying within the limits of the Township of West Caldwell shall keep all brush, hedges and other plant life growing within 10 feet of any roadway and within 25 feet of the intersection of two or more roadways cut to a height of not more than 2½

feet, where the Construction Code Enforcement Official or his/her designated representative shall deem it necessary and expedient for the preservation of public safety.

**§ 15-11. Notice to owner, tenant or operator.**

After a determination by the Construction Code Enforcement Official or his/her designated representative that it is necessary and expedient for the preservation of public safety to cut brush, hedges or other plant life, 10 days' notice shall be given by the Construction Code Enforcement Official or his/her designated representative, in writing, by mail or personal service, to the owner, tenant or operator, notifying him/her of the determination.

**§15-12. Removal by Township; costs established as a lien.**

a. If the owner, tenant or operator shall fail to cut the brush, hedges or other plant life within 10 days after the giving of notice, the cutting shall be done by the Department of Public Works or a private contract service hired by the Township of West Caldwell.

b. The Director of Public Works shall certify the cost thereof to the Governing Body of the Township at its next regular meeting thereafter. The Governing Body shall examine the certificate and, if found to be correct, shall cause the cost, as shown thereon, to be charged against the lands. In the event such cost is found to be excessive by the Governing Body, it shall cause a reasonable cost therefore to be charged against the lands. The amount so charged shall forthwith become a lien on the lands and shall be added to and become and form a part of the taxes next to be assessed and levied upon the lands and shall bear interest at the same rate as other taxes and be collected and enforced by the same officers and in the same manner as taxes.