BILL NO. 2119 **ORDINANCE NO. 1932**

AN ORDINANCE FOR MINIMUM STANDARDS FOR THE EXTERIOR MAINTENANCE OF RESIDENTIAL AND NON-RESIDENTIAL PROPERTY, SURROUNDING PROPERTY AND APPURTENANCES WITHIN THE CITY OF CHESTERFIELD, MISSOURI.

WHEREAS, the zoning laws of the City of Chesterfield provide some control as to the use of property by zoning districts; and

WHEREAS, that there exists within the City of Chesterfield certain structures and land, which exhibit certain defects increasing the hazards of fire, accidents, and other calamities; have the potential for lack of ventilation; light and sanitary facility issues; or due to such other conditions which render the structures or lands dangerous or potentially injurious to the health, safety and general welfare of the occupants of those structures and lands or other residents of the City; or which have a blighting influence on the properties in the area. Such conditions may include but are not limited to defects, which increase the hazards of fire, accident, or other calamity; dilapidation; disrepair; structural defects; uncleanliness; inadequate ingress and egress; dead or dying tree limbs or other unsightly natural growth or unsightly appearances that constitute a blight to adjoining property, the neighborhood or the City; walls; siding or exteriors of a quality and appearance not commensurate with the character of the properties in quality and appearance not commensurate with the character of the properties in the neighborhood; unsightly stored or parked material, equipment, supplies, machinery, trucks and automobiles or parts thereof; vermin infestation; inadequate drainage or any violation of health, fire, building or zoning ordinances, or any other laws, regulations and ordinances relating to the use of land and the occupancy of the buildings and structural appurtenants; and

WHEREAS, the City of Chesterfield further finds that any of the foregoing conditions render such structures or lands unsafe, unsanitary or dangerous, or detrimental to the health, safety, or otherwise inimical to the welfare of the residents of the City, and it is hereby deemed necessary to require or cause the repair, closing, demolition or removal of such structures or lands in the manner herein provided.

WHEREAS, further legislation is necessary to supplement the zoning ordinances to protect against significant interference with the general health and safety of the public from unsound structures and the like, on residential and non-residential property.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHESTERFIELD, ST. LOUIS COUNTY, MISSOURI, AS FOLLOWS:

Section 1. **Purpose of Ordinance**.

To protect, provide for and promote the public safety, health, comfort, morals, and general welfare of the residents of the City of Chesterfield, Missouri, by establishing minimum requirements for safe and sanitary exterior maintenance of the structure/buildings, and accessory structures. These general objectives include, among others, the following specific purposes:

a) To protect the character and stability of all residential and non-residential properties within the City.
b) To provide minimum standards for the exterior maintenance of the residential and non-residential property within the City.
c) To prevent the creation of any blighting conditions by preventing the deterioration of any residential and non-residential property and thereby preserving the value of land and buildings throughout the City.
d) To provide the means for the administration and enforcement of this ordinance to ensure that the above purposes are accomplished.

Section 2. Acceptability of Article.

Every residential and non-residential building/structure within the City, whatever the nature of its use, whether vacant or occupied, whether existing or hereafter constructed, shall be maintained in accordance with the applicable requirements of this ordinance. In any case where a provision of any zoning, building, fire, safety, or health code of the municipality existing on the effective date of this article or hereafter established is found to be in conflict with the provisions contained herein, the provision that establishes the more restrictive standard shall prevail.

Section 3. Definitions.

As used in this article, the following terms shall have the respective meanings ascribed to them:

a. **Accessory Structure**: A detached subordinate structure located on the same lot as the main structure. Where a part of the wall of an accessory structure is part of a main structure or where an accessory is attached by a roof, such accessory structure shall be considered as part of the main structure. The use of said structure is customarily incidental to the main structure.

b. **Approved**: Approved as applied to a material, device or method of construction shall mean approved by the building code adopted by the City, or approved by other authority designed by law to give approval in the matter in question.

c. **Basement**: A floored and wall substructure of a building at least 50% below the average finished grade of the building.

d. **Cellar**: A portion of a separate structure not part of a dwelling building located partly or wholly underground and having one-half (1/2) or more of its clear floor-to-ceiling height below the average grade of the adjoining ground. .

e. **Condominium**: Property as described in Chapter 448 of the Missouri Revised Statutes, 1969, and all amendments thereto. (See Definition of Owner.)

f. **Deterioration**: The condition or appearance of a building, or part thereof, characterized by evidence of physical decay, neglect or lack of maintenance.

g. **Dwelling**: Any building, or portion thereof, which is designed or used or intended to be used as a living or sleeping facility for human occupants.

h. **Dwelling Unit**: A self-sufficient living area for one family having its own permanently installed cooking and sanitary facilities.

i. **Fixtures**: An element or feature present on the exterior ~~or interior premise~~ of a building including such objects as flagpoles, light fixtures, and other semi-permanently fixed structures.

j. **Multifamily**: - A building or portion thereof designed for or occupied exclusively by three (3) or more families living independently of each other in individual dwelling units.

k. **Occupant**: The person, firm, partnership, corporation or other entity that has possession of any part of the space within the building.

l. **Operator**: Any person, firm, partnership, corporation, or other entity who alone, jointly or severally with others, shall be in actual possession of, or have charge, care or control of any dwelling unit within the City. When the owner is represented by an employee, agent, trustee, guardian of the estate or person of the title holder, such person shall be bound to comply with the provisions of this article to the same extent as the owner. In all cases of condominiums, the Board of Managers shall be responsible for complying with all provisions of this article, if within the common elements, as defined by the specific declaration and by-laws.

m. **Owner**: Any person, firm, partnership, corporation, or other entity who alone, jointly or severally with others shall be the titled owner or, shall be in .actual possession of, or have charge, care or control of any building, or part of a building within the City or the right to take charge, care or control of any building or part of a building within the City. When the owner is represented by an employee, agent, trustee, guardian of the estate or person of the title holder, such person shall be bound to comply with the provisions of this ordinance, including the common elements, as defined by the specific declaration and by-laws of the particular property or building.

n. **Person**: A corporation, firm, partnership, association, organization and any other group acting as a unit, as well as any individual. It shall also include any executor, administrator, trustee, receiver or other representative appointed according to law. Whenever the word "Person" is used in any section of this article, prescribing a penalty or fine, as to partnerships or associations, the word shall include the individual partners or individual members thereof, and as to

corporations, shall include the individual officers, agents or members thereof who are responsible for any violation of such section.

o. **Premises**: A lot, plot or parcel of land or any part thereof, including the buildings or structures thereon.

p. **Repair**: To restore to a good and sound condition, state of operation, appearance or serviceability and free from defect or decay. All repairs to be made with materials similar to the undamaged area and designed to last approximately as long as would replacement by new materials.

q. **Replacement**: To remove an existing item or portion of an item that cannot be restored, or in lieu of the repair of an item, to a good and sound state of operation, appearance or serviceability so as to be free from decay or defect and to construct or install any item with an item of improved quality or of similar quality as the existing item when new. Replacement will ordinarily take place when the item is not repairable.

r. **Structure**: Anything constructed or erected, the use of which requires permanent location on the ground or attached to something having a permanent location on the ground, including, but without limiting, the generality of the foregoing: pergolas, radio towers, memorials and ornamental structures. The word "structure" includes the word "building" in addition to the foregoing.

s. **Yard**: An open space on the same lot with a structure.

Section 4. Enforcement Officer.

The Director of Planning is hereby designated to exercise the powers prescribed by this ordinance. In addition to the authority which may be specifically provided in this ordinance, the Director may exercise such powers as may be necessary or convenient to carry out and effectuate the purposes and provisions of this ordinance. The Director of Planning may appoint and fix the duties of such officers, agents and employees as the Director deems necessary to carry out the purposes of this ordinance and may delegate any of the aforementioned functions or powers to another officer, agent and/or employees.

Section 5. Minimum Exterior Standards.

a) **General**. The exterior of a building, including any exterior lighting mounted on the building, shall be maintained in a structurally sound and sanitary condition.

b) **Foundations**. Every foundation shall be reasonably weather-tight and in good repair. The foundation elements shall adequately support the building at all points. All foundation walls shall be maintained so as to carry the safe design and operating dead and live loads.

c) **Roofs**. The roof shall be sufficiently weather-tight, without loose shingles, missing or unsecured roofing materials.

d) **Stairs, Porches, Railings and Decks**. No porch, stairway, railing or deck shall have rotting, loose or deteriorating supports. All stairs, porches, handrails and decks shall be maintained in such a manner as to be capable of supporting the load for which it was intended.

e) **Windows, Doors, Screens and Garage Doors**. Every window, screen, and door shall fit reasonably tight within its frame and shall be in good repair, operable, capable of being easily opened and held in position by hardware. They shall be substantially tight without cracks, breaks or holes.

f) **Hardware and Fixtures**. All exterior hardware and fixtures, including decorative fixtures, shall be well anchored and without loose or unsecured elements that pose a safety hazard.

g) **Driveways and Sidewalks**. Driveways and sidewalks shall be maintained in such a manner as to remain reasonably free of holes, cracks and other signs of deterioration, wide or uneven ridges that may impede the safety of pedestrians.

h) **Fences and Retaining Walls**. Fences and retaining walls shall be anchored firmly and be intact without loose or missing pieces, holes, or breaks in materials that would cause a failure of the fence or retaining wall to support the uses for which it is intended.

i) **Accessory Buildings. Structures or Appurtenances**. All accessory buildings or structures, including, but not limited to, tie walls, retaining walls, antennae, towers, etc, shall be subject to all requirements of this article.

j) **Structural Members**. All supporting structural members of a structure shall be kept in a structurally sound condition, free of deterioration and maintained in such manner as to be capable of safely bearing the dead and live loads imposed upon them.

k) **Exterior Walls**. Every exterior structural or architectural wall shall be free of holes, breaks, loose or rotting boards or timber, or any other condition which might admit rain or dampness to the interior portions of the walls or to the occupied spaces of the building. All exterior surface materials, including wood, composition or metal siding, shall be maintained in a weatherproofed condition and shall be properly surface coated to prevent deterioration. Where an existing painted wall surface has areas of chipping, peeling, scaling or missing paint equal to or greater than 25 percent of the painted area, then such surface shall be repainted, or stripped of all paint and given a water-resistant coating if necessary.

l) **Decorative Features**. All cornices, moldings, belt courses, corbels, trim, wall facings and similar decorative features, shall be maintained in good repair with proper anchorage and in safe condition.

m) **Canopies, Marquees, Awnings and Overhangs**. All canopies, marquees, awnings and any overhead extension shall be maintained in good repair and be properly anchored, shall be protected from the elements and against decay and rust by the periodic application of weather-coating materials such as paint or other protective treatment.

n) **Chimneys**. All chimneys, smokestacks, cooling towers and similar appurtenances shall be maintained in a structurally safe and sound condition and in good repair.

o) **Basement Hatchways**. Every basement or cellar hatchway shall be constructed and maintained in a safe and effective condition to prevent the entrance into the building of rodents, rain or surface drainage.

p) **Gutters and Downspouts**. Rain gutters and downspouts, or other means of water diversion that are provided to collect/conduct and discharge all water from the roof and shall be anchored securely so as to discharge the water from the roof in the direction and manner intended.

Section 6. **Registering Allegations**. Any person desiring to register an allegation regarding any structure or land which may be in violation of this ordinance shall be required to state his or her name and address which shall be placed on record with the City as a condition precedent to the filing of an allegation. No anonymous allegations shall be accepted or recorded by the City. ALL allegations must state specifically the violation or violations being reported.

Section 7. **Right of Entry**.

a) Any authorized officer or agent of the City, pursuant to this chapter, shall be allowed onto any land within the City limits to investigate violations of this ordinance, provided that such entries shall be made in such a manner as to cause the least possible inconvenience to the persons in possession and said officer shall obtain an order for this purpose from a court of competent jurisdiction in the event entry is denied or resisted.

b) Any authorized officer or agent of the City pursuant to this ordinance shall be allowed to enter onto any land within the City limits to abate violations of this ordinance.

c) It shall be unlawful for any person to interfere with a public officer or agent of the City in performing his or her duties pursuant to this ordinance whether investigating or abating violations.

d) Any person who interferes with an officer or agent of the City pursuant to this ordinance shall be punished as provided in section 11 of this ordinance.

Section 8. Notice to Abate.

a) Whenever it comes to the attention of the City, or the City becomes aware of the existence of a violation, the City shall investigate the violation. If the City's representative discovers a basis for determining that one or more sections of this ordinance have been violated, they shall issue a Notice of violation. Said Notice shall be left with any adult person occupying or in possession of such property, whether such person is the owner, renter or lessee thereof, by delivering such warning notice to such person, or if no one is present in the property or refuses to accept the notice, by posting the warning notice on the front, or side or rear entrance to the residence or building.

b) The notice provided in subsection (a) shall contain:

(1) The address or legal description of the property;
(2) The ordinance number of the ordinance being violated;
(3) The nature of the violation, and the date by which such violation shall be removed or abated;
(4) A notice of the penalty for failure to remove or abate the violation, stating that if the violation reoccurs by the same occupier, owner or person in charge, a summons will be issued without further notice.
(5) The date that a hearing will be held before the Director of Planning or a designated agent at a place and time fixed not less then 10 days or more than 30 days after the service or mailing of said notice.
(6) Such notice shall also state that the owner, mortgagee, and the parties in interest shall be given the right to file an answer to the allegations and to appear in person, or otherwise with or without legal counsel, and give testimony at the place and time fixed in the notice. Said notice shall also state that the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the hearing officer.

c) During said hearing, the hearing officer shall have the power and authority to administer oaths and affirmations, examine witnesses, and receive evidence. The rules of evidence utilized by courts in Missouri shall not be controlling in hearings before the public officer.

d) If the violation occurs on property where a residence or building is unoccupied, the warning notice may be posted as provided for in subsection (a). If the violation occurs on unimproved property, the warning notice may be posted upon a tree or other object upon the property.

e) In addition, a notice in writing containing the same information as provided on the warning notice provided in subsection (b) shall be sent to the last known address of

owner of record **as identified by the St. Louis County tax records** or any other person having control of the property **and any mortgage of record**, by ordinary mail, postage prepaid.

Section 9. Orders of Hearing Officer.

Within thirty (30) days of any hearing held pursuant to Section 8 the hearing officer shall issue a written order containing findings of fact and stating the officer's determination. Such order shall be directed to the owner and served in a manner prescribed in Section 8 upon the owner and all other persons entitled to notice according to the provisions of Section 8(a). If the hearing officer determines that a violation has occurred, the order shall require the repair, alteration or improvement to be made and shall specify a time for the repair, alteration or improvement to be completed so as to correct the violation.

Section 10. Failure to Comply with Order.

Once a notice has been given as required by Section 8 on a lot or tract of land in or on which a violation has been created or maintained, and after abatement thereof, the same violation recurs in or on the same lot or tract of land by the same person or persons responsible therefore, within one year of the abatement no further Notice as set forth in Section 8 need be given. Thereafter, such responsible person or persons may be summoned into municipal court to answer to the charges against him/her. In addition to the court costs normally assessed in all such cases, there shall be added thereto all costs incurred by the City in abating the violation, as set out in Sections 8 and 9.

Section 11.

Upon neglect or failure to act upon the order of the hearing officer, the City shall issue a summons as follows:

a) **Summons, service of.** If a notice is given as provided in Section ~~6~~-8, and if after the time for removal or abatement has lapsed, the property is re-inspected and the inspecting officer finds and determines that the violation has not been removed or abated, the inspecting officer shall fill out and sign as the complainant a complaint and information form, hereinafter referred to as a summons, directed to the same individuals as set forth in Section 8 and delivered in the same manner as set forth in Section 8 and specifying the section of the ordinance which is being violated and setting forth in general the nature of the violation. The summons shall contain a date on which the case will be on the municipal court docket for hearing. The City Prosecuting Attorney or Assistant City Prosecuting Attorney will review and approve the Summons and then shall sign the original copy of all such summons, and the original thereof shall be forwarded to the clerk of the municipal court for inclusion on the court's docket for the date shown on the summons.

b) **Abatement by City: costs assessed to person responsible.** If the condition violating this ordinance is not corrected, after the occupant, owner or person in

charge of property for which a warning notice has been given to remove or abate a violation, fails to remove or abate the violation in the time specified in the notice, whether residential or non-residential, then the City may remove the same and thereby abate the violation, and, if necessary, may lawfully enter upon the property on which the violation remains unabated to remove or abate such violation at the costs of the person or persons responsible for creating or maintaining the violation, or by any persons as defined in Section 3.

c) **Payment of costs: special tax bill or judgment**. All costs and expenses incurred by the City in removing or abating any violation on any residential or non-residential property may be assessed against the property in the form of a special tax bill, which special tax bill shall become a lien on the property. Alternatively, the cost of removing or abating the violation, may be made a part of the judgment by the municipal judge, in addition to any other penalties and costs imposed, if the person charged either pleads guilty or is found guilty of causing, creating or maintaining a violation on residential or non-residential property.

d) **Warning notice, first offense**. In all cases where the violation on residential or non-residential property is the first offense of the specified ordinance violation for the persons charged therewith, the notice provisions of Section 8 shall be observed.

e) **Warning notice. subsequent offenses**. In all cases where the violation on residential or non-residential property is a repeat or continued offense on such property, the notice provisions of Section 8 need not be observed.

Section 12. This ordinance shall apply to any violations cited after the date of this ordinance.

Section 13. Construction.

Nothing in this ordinance shall be construed to abrogate or impair the powers of the courts or of any department of the City to enforce any other provisions of the Chesterfield Municipal Code, where such provisions are applicable, and the powers conferred by this ordinance shall be in addition and supplemental to the powers conferred by any other law. In addition, nothing in this Ordinance shall be construed to impair or limit in any way the power of the City to define and declare nuisances and to cause their removal or abatement of nuisances by other authorized proceedings of the City.

Section 14. Invalidity.

If any word, phrase, sentence, or section of this ordinance, or the application thereof to any person or circumstances, is held invalid, the invalidity shall be deemed not to affect other provisions or applications of the ordinance which can be given affect without the invalid provision or application, and to this end the provisions of this ordinance are severable.

Section 15. Savings Clause.

Neither the adoption of this ordinance nor the repeal or amendment of any ordinance or part or portion thereof shall in any manner affect the prosecution for violations of ordinances, which violations were committed prior to the effective date hereof, nor be construed as affecting any of the provisions of such ordinances relating to the collection of any fee or penalty, or the penal provisions applicable to any violation thereof, nor to affect the validity of any bond or cash deposit in lieu thereof required to be posted, filed or deposited pursuant to any ordinance, and all rights and obligations thereunder appertaining shall continue in full force and effect.

Section 16.

a) Any person, persons, firm, association, partnership, corporation or other entity violating any provision of the Ordinance or any employee, assistant, agent, or any other person participating or taking part in, joining or aiding in a violation of any provision of the Ordinance may be prosecuted as provided by law for the violation of ordinances of the City of Chesterfield and upon conviction shall be punished by a fine not exceeding five hundred dollars ($500) for any one offense. Each day a violation continues after the expiration of the warning period to abate the violation shall constitute a separate offense.

b) In addition to the penalties hereinabove authorized and established, the City Attorney shall take such other actions at law or in equity as may be required to halt, terminate, remove, or otherwise eliminate any violation of this Ordinance.

Section 17.

This Ordinance shall be in full force and effect from and after its passage and approval.

Passed and approved this 5th day of May, 2003.

John Nations, Mayor

ATTEST:

Marty DeMay, City Clerk