

**CITY OF CHEVIOT
STATE OF OHIO**

ORDINANCE NO. 19-03

TO AMEND SECTIONS 131.05 AND 131.06 OF THE CHEVIOT CODE OF ORDINANCES TO REVISE THE NOTICE PROCEDURES.

WHEREAS, Section 131.05 of the Cheviot Code of Ordinances currently reads as follows:

131.05 WEEDS, VINES, AND GRASS.

(A) The owner, lessee, lessee, tenant, occupants, or person or persons having care and control of a plot or ground within the city shall cut down and remove all offensive and noxious weeds, vines, and grass of a height of ten inches or more and all weeds, vines, and grass constituting a threat to the public health, safety, comfort, and welfare. For the purposes of this section, when a piece of real property is in the process of foreclosure, the person or entity, who holds the mortgage upon which the foreclosure is taking place, may be considered to be an additional person having care and control of the property.

(B) When the Safety-Service Director determines that such weeds, vines, or grass, as described in division (A) of this section, exist, he shall serve written notice by certified mail to the owner, lessee, tenant, occupant, or person having care of or control of the plot of ground, ordering the cutting and removal of such weeds, vines, or grass within five days of the receipt of such notice. If such certified mail notice is returned by the postal service as unclaimed or refused, it shall be sufficient for the Safety-Service Director to send the notice by regular mail. The date of receipt of the regular mail notice by the intended party shall be considered to be the third day after it was mailed by the Safety-Service Director.

(C) If the property in violation of division (A) is vacant and the address of the owner or person having charge of the land is unknown, it is sufficient to publish the notice once in a newspaper of general circulation in the city. The date of receipt of the notice shall be deemed to be the date of publication. Alternatively, the Safety-Service Director may cause written notice to be posted in a conspicuous place on the property advising the owner of the order to cut and remove weeds, vines, or grass within five days of the posted notice. The posted notice shall list the date of the notice and the name of the Safety-Service Director and his address and telephone number.

(D) Only one notice per calendar year under divisions (B) or (C) above is required for a particular lot or parcel. If after a notice has been served in accordance with this section, the Safety-Service Director determines that a subsequent violation has occurred, the city may proceed with the remedies set forth in this section without any further notice.

(E) The owner, lessee, tenant, occupant, or person having care or control of the plot or ground shall cut and remove the non-complying weeds, vines or grasses within five days of the receipt of the notice. Failure to comply with the notice shall be a minor misdemeanor punishable according to the penalties enumerated in § 130.99. Each day of violation may be the basis of a separate offense. If, having been previously convicted of a violation of this section, a person is convicted of a new offense, that offense shall be a misdemeanor of the fourth degree punishable according to § 130.99. The owner, owners, tenant, or tenants may be jointly and severally responsible for compliance with this section, and the conviction of one does not preclude the conviction of another.

(F) In addition to the criminal penalties noted in division (E), a failure to comply with the notice given by the Safety-Service Director shall cause the city to cut and remove the non-complying weeds, vines, or grass. Such cutting shall be at the owner's expense, and the actual cost of removal, along with an administrative fee of 20% of the cost, shall be charged to the owner and assessed against the plot or ground.

(G) Notice of such charge and assessment shall be sent by mail or given to the owner of the lot charged therewith. All assessments not paid within 30 days after such notice is mailed shall, after approval by City Council, be certified by the Clerk of Council to the County Auditor to be placed on the tax duplicate and collected as other taxes are collected.

WHEREAS, Section 131.06 of the Cheviot Code of Ordinances currently reads as follows:

131.06 CONTROL OF VEGETATION IN THE PUBLIC RIGHT OF WAY.

(A) The owner, lessee, tenant, occupants, or person or persons having care and control of a plot of ground within the city shall remove from his land and the public right of way abutting his land every dead, decayed, or broken tree, plant, or shrubbery, or part thereof, so that the same shall not fall to the public right of way.

(B) The owner, lessee, tenant, occupants, or person or persons having care and control of a plot of ground within the city upon which a tree, plant, or shrubbery stands in a position to overhang any portion of an abutting public right of way, shall trim or cause to be trimmed the tree, plant, or shrubbery on his land or the public right of way abutting such land, so that a clear height of eight feet is maintained between the lowest branches of foliage of the tree, plant, or shrubbery and the public street or sidewalk.

(C) The owner, lessee, tenant, occupants, or person or persons having care and control of a plot of ground within the city shall cut down and remove from his land and the public right of way abutting such land any tree, plant, or shrubbery or any part thereof, as may be necessary to provide a clear and unobstructed view of traffic from all directions at any right of way intersection, and to abate any nuisance necessary to protect life, limb, or property of persons, occupants of vehicles, and pedestrians using the abutting public right of way.

(D) (1) When the Safety-Service Director or the Cheviot Building Commissioner determines that any of the conditions mentioned in divisions (A), (B), or (C) above exist, he shall serve written notice by certified mail to the owner, lessee, tenant, occupant, or person having care or control of the plot of ground ordering compliance within 14 days of receipt of the notice. If such certified mail notice is returned by the postal service as unclaimed or refused, it shall be sufficient for the Safety-Service Director or Building Commissioner to send the notice by regular U.S. mail. The date of receipt of the regular mail notice by the intended party shall be considered to be the third day after it was mailed by the sender.

(2) If, after 14 days after written notice by the Safety-Service Director or the Building Commissioner, requiring compliance with divisions (A), (B), or (C) above, the responsible party fails to comply, the Safety-Service Director may cause the required work to be done by the labor force of the city or by a licensed contractor, and the cost thereof assessed against the lot or parcel of land. Such cutting shall be at the owner's expense, and the actual cost of correction and/or removal, along with an administrative fee of 20%, plus any publication costs shall be charged to the owner and assessed against the plot or ground.

(E) Notice of such charge and assessment shall be sent by mail or given to the owner of the lot charged therewith. All assessments not paid within 30 days after such notice is mailed shall, after approval by City Council, be certified by the Clerk of Council to the County Auditor to be placed upon the tax duplicate and collected as other taxes are collected.

WHEREAS, this Council desires to amend subsections (B) and (C) of Section 131.05 and subsection (D)(1) of Section 131.06 to update the notice procedures; and

WHEREAS, this Council determines that it is in the best interest of the City to amend subsections (B) and (C) of Section 131.05 and subsection (D)(1) of Section 131.06 to update the notice procedures.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CHEVIOT, STATE OF OHIO THAT:

Section 1. Section 131.05 of the Cheviot Code of Ordinances is hereby amended as follows:

131.05 WEEDS, VINES, AND GRASS.

(A) The owner, lessee, lessee, tenant, occupants, or person or persons having care and control of a plot or ground within the city shall cut down and remove all offensive and noxious weeds, vines, and grass of a height of ten inches or more and all weeds, vines, and grass constituting a threat to the public health, safety, comfort, and welfare. For the purposes of this section, when a piece of real property is in the process of foreclosure, the person or entity, who holds the mortgage upon which the foreclosure is taking place, may be considered to be an additional person having care and control of the property.

(B) When the Safety-Service Director determines that such weeds, vines, or grass, as described in division (A) of this section, exist, he shall serve written notice to the owner, lessee, tenant, occupant, or person having care of or control of the plot of ground, ordering the cutting and removal of such weeds, vines, or grass within five (5) days of the receipt of such notice. The Safety-Service Director shall also post the notice in a conspicuous place on the property advising the owner of the order to cut and remove weeds, vines, or grass within five days of the posted notice. The posted notice shall list the date of the notice and the name of the Safety-Service Director and his address and telephone number.

The notice shall be deemed properly served if, in addition to the posted notice described above, the notice is either:

- (1) Delivered via regular U.S. Mail to the recipient's last known address, or
- (2) Served personally by hand-delivery to the recipient.

The date of receipt of the regular mail notice, as described in division (B)(1) above, shall be considered to be the third day after it was mailed by the Safety-Service Director.

(C) If the property in violation of division (A) is vacant, the address of the owner or person having charge of the land is unknown, or service cannot be completed by the methods described in division (B), it is sufficient to publish the notice once in a

newspaper of general circulation in the city. The date of receipt of the notice shall be deemed to be the date of publication.

(D) Only one notice per calendar year under divisions (B) or (C) above is required for a particular lot or parcel. If after a notice has been served in accordance with this section, the Safety-Service Director determines that a subsequent violation has occurred, the city may proceed with the remedies set forth in this section without any further notice.

(E) The owner, lessee, tenant, occupant, or person having care or control of the plot or ground shall cut and remove the non-complying weeds, vines or grasses within five days of the receipt of the notice. Failure to comply with the notice shall be a minor misdemeanor punishable according to the penalties enumerated in § 130.99. Each day of violation may be the basis of a separate offense. If, having been previously convicted of a violation of this section, a person is convicted of a new offense, that offense shall be a misdemeanor of the fourth degree punishable according to § 130.99. The owner, owners, tenant, or tenants may be jointly and severally responsible for compliance with this section, and the conviction of one does not preclude the conviction of another.

(F) In addition to the criminal penalties noted in division (E), a failure to comply with the notice given by the Safety-Service Director shall cause the city to cut and remove the non-complying weeds, vines, or grass. Such cutting shall be at the owner's expense, and the actual cost of removal, along with an administrative fee of 20% of the cost, shall be charged to the owner and assessed against the plot or ground.

(G) Notice of such charge and assessment shall be sent by mail or given to the owner of the lot charged therewith. All assessments not paid within 30 days after such notice is mailed shall, after approval by City Council, be certified by the Clerk of Council to the County Auditor to be placed on the tax duplicate and collected as other taxes are collected.

Section 2. Existing Section 131.05 of the Cheviot Code of Ordinances is hereby repealed.

Section 3. Section 131.06 of the Cheviot Code of Ordinances is hereby amended as follows:

131.06 CONTROL OF VEGETATION IN THE PUBLIC RIGHT OF WAY.

(A) The owner, lessee, tenant, occupants, or person or persons having care and control of a plot of ground within the city shall remove from his land and the public right of way abutting his land every dead, decayed, or broken tree, plant, or shrubbery, or part thereof, so that the same shall not fall to the public right of way.

(B) The owner, lessee, tenant, occupants, or person or persons having care and control of a plot of ground within the city upon which a tree, plant, or shrubbery stands in a position to overhang any portion of an abutting public right of way, shall trim or cause to be trimmed the tree, plant, or shrubbery on his land or the public right of way abutting such land, so that a clear height of eight feet is maintained between the lowest branches of foliage of the tree, plant, or shrubbery and the public street or sidewalk.

(C) The owner, lessee, tenant, occupants, or person or persons having care and control of a plot of ground within the city shall cut down and remove from his land and the public right of way abutting such land any tree, plant, or shrubbery or any part thereof, as may be necessary to provide a clear and unobstructed view of traffic from all directions at any right of way intersection, and to abate any nuisance necessary to protect life, limb, or

property of persons, occupants of vehicles, and pedestrians using the abutting public right of way.

(D) (1) When the Safety-Service Director or the Cheviot Building Commissioner determines that any of the conditions mentioned in divisions (A), (B), or (C) above exist, he shall serve written notice to the owner, lessee, tenant, occupant, or person having care or control of the plot of ground ordering compliance within 14 days of receipt of the notice. The Safety-Service Director shall also post the notice in a conspicuous place on the property advising the owner of the order to cut or remove the tree, plant, or shrubbery within 14 days of the posted notice. The posted notice shall list the date of the notice and the name of the Safety-Service Director and his address and telephone number.

The notice shall be deemed properly served if, in addition to the posted notice described above, the notice is either:

- (a) Delivered via regular U.S. Mail to the recipient's last known address, or
- (b) Served personally by hand-delivery to the recipient.

The date of receipt of the regular mail notice, as described in division (D)(1)(a) above, shall be considered to be the third day after it was mailed by the Safety-Service Director.

If the property in violation of division (A), (B), or (C) is vacant, the address of the owner or person having charge of the land is unknown, or service cannot be completed by the methods described in division (D)(1), it is sufficient to publish the notice once in a newspaper of general circulation in the city. The date of receipt of the notice shall be deemed to be the date of publication.

(2) If, after 14 days after written notice by the Safety-Service Director or the Building Commissioner, requiring compliance with divisions (A), (B), or (C) above, the responsible party fails to comply, the Safety-Service Director may cause the required work to be done by the labor force of the city or by a licensed contractor, and the cost thereof assessed against the lot or parcel of land. Such cutting shall be at the owner's expense, and the actual cost of correction and/or removal, along with an administrative fee of 20%, plus any publication costs shall be charged to the owner and assessed against the plot or ground.

(E) Notice of such charge and assessment shall be sent by mail or given to the owner of the lot charged therewith. All assessments not paid within 30 days after such notice is mailed shall, after approval by City Council, be certified by the Clerk of Council to the County Auditor to be placed upon the tax duplicate and collected as other taxes are collected.

Section 4. Existing Section 131.06 of the Cheviot Code of Ordinances is hereby repealed.

Section 5. This Ordinance shall be in effect at the earliest time allowed by law.

Mark G. Waters
President of Council

Date passed

Samuel D. Keller
Mayor

Date approved

Attest:

Approved as to form:

Jenny M. Eilermann
Clerk of Council

Kimberlee Erdman Rohr
Law Director

CERTIFICATE OF PUBLICATION

I, Jenny M. Eilermann, Clerk of the Council of the City of Cheviot, Ohio, hereby certify that the foregoing ordinance, or a succinct summary, was published in the *Western Hills Press*, a newspaper of general circulation in the City of Cheviot, Ohio, in accordance with Section 731.21 of the Ohio Revised Code, on the following dates:

- 1) _____, 2019, and
- 2) _____, 2019.

Jenny M. Eilermann
Clerk of Council