

AN ORDINANCE

BY: MR. STEPHENS

NO. 4960

AMENDING CHAPTER 551, *WEEDS*, OF THE OAKWOOD GENERAL OFFENSES CODE BY UPDATING THE TITLE THEREOF TO *LANDSCAPE MANAGEMENT*, ADDING RELEVANT DEFINITIONS, REORDERING EXISTING PROVISIONS, AND INCORPORATING NEW PROVISIONS TO AUTHORIZE THE ESTABLISHMENT OF MANAGED NATURAL LANDSCAPE AREAS ON PRIVATE PROPERTY WITHIN THE CITY.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF OAKWOOD, STATE OF OHIO, THAT:

SECTION I.

Existing Chapter 551, *Weeds*, of the Oakwood General Offenses Code is hereby renamed as Chapter 551, *Landscape Management*, of the Oakwood General Offenses Code, and the same is hereby amended to read as set forth on the attached Exhibit, which shows new text in *italic* font and deleted text in strike-thru font, and which is incorporated herein by this reference.

SECTION II.

It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this ordinance were adopted in an open meeting of this Council and that all deliberations of this Council and of any of its committees that resulted in such formal action were in compliance with all legal requirements including § 121.22, Ohio Revised Code.

SECTION III.

This ordinance shall take effect as of the earliest date permitted by law.

PASSED BY COUNCIL OF THE CITY OF OAKWOOD, this 18th day of July, 2022.



Mayor William D. Duncan

ATTEST:



Clerk of Council

TO THE CLERK:

Please publish the foregoing by incorporating the same into the Codified Ordinances of the city.



City Attorney Robert F. Jacques

CHAPTER 551
Weeds Landscape Management

- 551.01 Purpose and definitions.**
- 551.02 Periodic cutting required.**
- 551.03 Notice to cut; Notice of violation.**
- 551.04 Failure to comply with notice.**
- 551.05 Collection of costs.**
- 551.06 Designation of nature areas; appeals.**
- 551.07 Managed natural landscape areas.**
- 551.99 Penalty.**

CROSS REFERENCES

Notice to cut noxious weeds - see ORC 731.51 et seq.
Destruction of weeds - see ORC 971.33 et seq.
Removal of weeds - see HSG. 1701.01 A 2, 1701.02 B.

551.01 PURPOSE AND DEFINITIONS

(a) *Purpose.* The purpose of this chapter is to encourage the use of vegetation throughout the City to maximize ecological and aesthetic benefits while respecting existing community values regarding landscaping to include well-maintained yards, preservation of sight lines, compatibility with existing structures, and public safety. Ecological benefits of “managed natural landscapes” include enhancement of pollinator support habitat, stormwater management, carbon sequestration, erosion control, and preservation of biodiversity.

(b) *Definitions.* As used in this chapter, the following definitions shall apply:

“Managed or maintained” means regularly cultivated, weeded, pruned, trimmed, tied, and/or managed so as to avoid the appearance of neglect, overgrowth, untidiness, or disease/decay, and in a manner that is not inconsistent with customary and prevailing levels of yard maintenance within the subject property’s property maintenance district, as defined in Section 108 of the Oakwood Property Maintenance Code. For purposes of this definition, appearance shall be determined by the Building Commissioner or his/her designee, subject to appeal to the Property Maintenance Board under applicable procedures set forth in the Oakwood Property Maintenance Code.

“Managed natural landscape area” means a planned, intentional, and managed or maintained planting of native or non-native grasses, wildflowers, ferns, sedges, shrubs, or trees, including but not limited to rain gardens, butterfly gardens, and ornamental plants.

“Noxious weed” means any plant that has been identified as being harmful to the local natural environment and included in a list promulgated by the City Manager or his or her designee; or as listed in Sections 901:5-30 or 901:5-37 of the Ohio Administrative Code,

which is incorporated herein by reference as the same may be amended from time to time.

“Ornamental plant” means grasses, perennials, annuals, and groundcovers purposefully planted for aesthetic reasons.

“Rain garden” means planting designed not only to aesthetically improve an area, but also to reduce the amount of stormwater and accompanying pollutants from entering the watershed.

“Turf-grass” means any variety of grass commonly used in regularly cut lawns, typically maintained at a height of no more than five (5) inches.

“Weed” includes but is not limited to any brush, vegetation rubbish or vegetation litter (including leaves, other than leaves spread or left to over-winter as a mulching treatment in prepared beds), accumulating or permitted to lie upon any property within the City; and all vegetation that is not managed or maintained by the owner or person in control of the property on which all such vegetation is located which generally exceeds the height restrictions in this Chapter, but excluding trees, shrubs and/or cultivated flowers and gardens.

551.02 PERIODIC CUTTING REQUIRED

(a) It is hereby determined that weeds or *turf-grass* growing at a height of eight (8) inches or higher upon any property in the City are a public nuisance. The owner, occupant or other person or entity having charge or care of any lot or parcel of land within the City, whether the same is improved or unimproved, vacant or occupied, shall cut down and remove therefrom all ~~offensive or noxious weeds, vines, grasses and vegetation~~ *weeds and turf-grass* of a height of eight (8) inches or greater, ~~or~~ *and* any and all ~~weeds, vines, grasses and~~ vegetation constituting a threat to the public health, safety, comfort or welfare.

(b) The owner, occupant or other person or entity having charge or care of land adjacent to a public street or public alley shall be responsible under this Chapter 551 for the cutting or removal of ~~offensive or noxious~~ *weeds, vines, turf-grass* and vegetation located on the unpaved street or alley right-of-way adjacent to such land, to the same standard set forth in subsection 551.01(a). (*Also see 521.07, 521.17 and 1707.01.*)

~~(c) “Weed” as used in this chapter, includes but is not limited to any brush, vegetation rubbish or vegetation litter accumulating or permitted to lie upon any property within the City; and all briars, thistles, burdock, dock, cocklebur, wild mustard, jimson weed, dog's fennel, lamb's quarters, plantain, wild carrot, wild parsnip, horseweed, sweet clover (white or yellow), velvet leaf, common mallow, ironweed, poison ivy and teasel.~~

~~(d)~~(c) The duty to cut or remove ~~offensive or noxious~~ *weeds, vines, turf-grasses* and vegetation, set forth in this section 551.01, shall not apply to the extent land has been

designated by the City as a public park nature area or ~~has been designated as a private lot nature area under this chapter.~~

551.03 NOTICE TO CUT; NOTICE OF VIOLATION.

(a) Written Notice to the Public. On or about April 15 of each calendar year, or sooner or later as warranted by weather conditions and vegetation growth, the City Manager shall cause a notice to appear in a newspaper of general circulation in the City, informing the property owners within the City of the requirements contained in Section 551.01. The notice shall contain the following information:

- (1) All properties within the City of Oakwood must be maintained in accordance with Section 551.01 of the Codified Ordinances of the City of Oakwood, which prohibits *turf*-grass or weed growth in excess of eight inches.
- (2) Should the owner of any property fail to comply with Section ~~551.0102~~, the City will cause the weeds or *turf*-grass to be cut at the owner's expense.
- (3) The City will invoice the owner for all costs thereof, including administrative costs, and if unpaid, will place a lien on the property for the amount owed in accordance with Ohio R.C.731.54.
- (4) Contact information for the appropriate City department.

(b) Placard. Upon verification that those weeds and/or *turf*-grasses described in Sections ~~551.01 or 551.02 or 551.03~~ exist, the City Manager or his designee shall conspicuously post a placard on the front door or in the front yard of the property for a period of five (5) calendar days. The placard shall be of a size, shape and color so as to be clearly visible and shall contain the following information:

- (1) The nature of the Code violation;
- (2) An order to cut the weeds or *turf*-grass within five (5) calendar days;
- (3) A statement indicating that should the property owner fail to comply with the order, the City will cause the weeds or *turf*-grass to be cut at the owner's expense, and the City will place a lien on the property for the amount owed in accordance with Ohio R.C. 731.54;
- (4) The penalties provided for removing the placard before bringing the property into compliance; and
- (5) Contact information of the appropriate City department.

(c) A placard, once posted, shall remain on the property until the property is brought into compliance with Section 551.02. Removal of the placard before the property complies with Section 551.02 shall constitute a minor misdemeanor.

(d) Only one written, published notice need be made per calendar year, as described in Section 551.03(a). It shall be the responsibility of each owner or any person, firm or corporation having the care of or in charge of any lot of land within the City to maintain the property thereafter in accordance with Section 551.02. *Similarly, only one placard notice per lot or parcel, need be issued per calendar year. Thereafter, if the City Manager or his or her designee determines that a subsequent violation of this chapter has occurred, the City may proceed with the remedies set forth in Section 551.04 without further notice.*

551.04 FAILURE TO COMPLY WITH NOTICE.

(a) If the owner, occupant, or other person or entity having charge or care of any lot or land within the City fails to comply with the notice provided for in Section 551.03(a), and fails to remedy such non-compliance during the 5-day period following the posting of a placard upon such lot or land pursuant to Section 551.03(b), the City shall cut the weeds or grass to bring that lot or land into compliance with this Chapter, at the expense of the owner(s) thereof.

(b) The City may, in its sole discretion, undertake such weed removal and/or grass cutting by its own employees or through an independent contractor. In calculating the expense to be charged to an owner of property under Section 551.04(a), chargeable expenses shall include all expenses actually incurred in removing weeds and/or cutting grass at such lot or land, including, without limitation, charges for the use of direct labor and administrative City employees, charges for equipment, fuel, and the like, and any independent contractor costs that may be incurred, all of which shall be assessed against said lot or land.

551.05 COLLECTION OF COSTS.

(a) Written notice of assessment shall be served by the City Manager or his designee upon the owner(s) of the lot or land by ordinary US mail, addressed to the then-current tax mailing address of the owner(s) then on file with the Montgomery County Auditor, and shall be effective upon mailing. In the event that the notice is returned as undeliverable, a City representative may make service by posting the notice upon the assessed premises, and shall make a return thereof. The amount of the assessment shall be paid and delivered to the City within ten (10) calendar days after service of the notice is perfected by mailing or posting.

(b) If the City has not received full payment of the assessment within those ten (10) calendar days, the City shall make a written return or certification to the Montgomery County Auditor of the amount of the unpaid assessment, including with that certification a proper description of the premises. The assessed amount shall be entered upon the tax duplicate and shall be a lien upon such land from and after the date of the entry and shall be collected as other taxes and returned to the City with the General Fund.

(c) Nothing in this Section 551.05 shall be construed to require the City to make separate assessments or issue separate notices of assessment or certifications to the Montgomery County Auditor for each weed removal or grass cutting that may occur with respect to any particular property. In the case of vacant properties or other lots or lands that may incur multiple assessments within a single growing season, the City may elect to combine assessments, notices of assessment, and/or certifications to the Montgomery County Auditor with respect to any particular property, in monthly or other convenient intervals, so long as each assessment is separately itemized.

551.06 DESIGNATION OF NATURE AREAS; APPEALS.

(a) The City Manager shall designate which portions, if any, of publicly owned and privately owned land within this City are to be deemed public park nature areas and private lot nature areas. No area shall be so designated unless the City Manager shall find with regard to such area:

- (1) That the establishment and maintenance of that area will not be detrimental to or will not endanger the public health, safety, morals, comfort, convenience or general welfare;
- (2) That the nature area will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, and that the nature area will not substantially diminish or impair property values within the neighborhood; and
- (3) That the establishment of the nature area will not impede the normal and orderly development and improvement of the surrounding property for uses permitted as to such property.

(b) Appeal of the City Manager's Decision. If dissatisfied with a decision of the City Manager to designate or not designate particular land as a nature area, a party may appeal the decision to the General Appeals Board established under Chapter 169 of the Codified Ordinances of the City. Standing to file such an appeal shall be limited to the owners or occupants of the subject property and the owners or occupants of any property located within 200 feet of the subject property.

Any appeal shall be made by delivering written notice of the appeal to the office of the City Manager within 14 days after issuance of the Manager's decision. The notice of appeal shall satisfy the following requirements:

- (1) It must specify the name and address of the appellant, the decision from which an appeal is taken, and the location of the subject property and prospective nature area; and
- (2) It must cite specific error by the Manager and any other grounds relied upon in support of the appeal.

Any such appeal shall be made and processed in accordance with appeal procedures set forth in Section 1007 of the ordinances of this City with regard to appeals to the Zoning Appeals Board.

Upon receipt of a timely notice of appeal, the Building Commissioner shall schedule a date for a public hearing thereon before the General Appeals Board. The Building Commissioner shall give written notice of the appeal and of public hearing on that appeal to the applicant and to each owner of real property within 200 feet of the lot on which the nature area, or the desired nature area, is or is proposed to be located. For the applicant, notice of the public hearing shall be sent by ordinary US mail to the address set forth on the notice of appeal. For all other parties entitled to notice of the public hearing, it shall be sufficient to provide notice by ordinary US mail addressed to the party's then-current tax mailing address on file with the Montgomery County Auditor, or by any other method reasonably calculated to reach the intended recipient.

(c) Determinations by the City Manager that public or private property is or is not to be designated as public park nature area or private lot nature area shall be effective for one year at a time plus such additional number of days, weeks or months as may elapse until a new determination is made.

551.07 MANAGED NATURAL LANDSCAPE AREAS.

(a) *An owner, authorized agent, or authorized occupant of any privately owned lands may, consistent with this subsection and all other applicable laws, statutes, rules, and ordinances, install and maintain a managed natural landscape area, provided that no such area may be installed or maintained upon the right-of-way strip between the sidewalk and street.*

(b) *Height requirement. The height restrictions provided in Section 551.02 shall not apply to natural plants, other than turf-grasses or noxious weeds, on privately owned, occupied residential property and properties contiguous to the privately owned, occupied residential property provided that such contiguous properties are owned by the same individual, when such natural plants are part of a managed natural landscape area. Nothing in this provision shall be construed to permit plant material of a height that causes an obstruction to appropriate roadway visibility, as regulated by Section 907 of the Oakwood Streets and Public Services Code, or plant material that by reason of its height is otherwise unsafe or hazardous to the public health, safety, and welfare.*

(c) *Overhanging vegetation. Managed natural landscaped areas shall not be permitted to overhang or encroach onto any public or private properties, or public sidewalks, streets, or alleys adjacent to the lot, tract or parcel on which they are planted. With the exception of trees, all vegetation in the right-of-way strip between the sidewalk and street must be kept at a height of less than eight (8) inches.*

551.99 PENALTY.

(EDITOR'S NOTE: See Section 501.99 for penalties applicable to any misdemeanor classification.)

Legislative history: Ord. 27, passed 7-20-1908; Ord. 3203, passed 4-20-81; Ord. 3453, passed 10-15-84; Ord. 3462, passed 11-19-84; Ord. _____, passed 5-6-2013.

A RESOLUTION

BY: MR. STEPHENS

NO. 1895

A RESOLUTION TO AUTHORIZE AND DIRECT THE DIRECTOR OF FINANCE TO CERTIFY CERTAIN DELINQUENT CHARGES FOR CUTTING NOXIOUS WEEDS TO THE COUNTY AUDITOR FOR COLLECTION.

WHEREAS, after notice, as required by law, the owners of the property hereinafter described failed to cut the noxious weeds growing upon such property, and this Council heretofore caused such noxious weeds to be cut and destroyed; and

WHEREAS, such owners have heretofore been notified of the costs incurred in connection therewith with a request for payment and have refused or failed to pay such costs; and

WHEREAS, Section 731.54 of the Ohio Revised Code and Section 551.05 of the Codified Ordinances of the city of Oakwood authorize the City to make written return to the County Auditor of a statement of charges for its services in cutting such noxious weeds and provides further that such amount shall be collected as other taxes and returned to the municipal corporation with the general fund; and

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF OAKWOOD, MONTGOMERY COUNTY, OHIO:

SECTION I:

That the charges for cutting noxious weeds, an aggregate amount of \$ 4020.12, as specified in Exhibit A, are hereby found and determined to have not been paid and are hereby returned to the County Auditor in accordance with Section 731.54 of the Revised Code and Section 551.05 of the Codified Ordinances of the city of Oakwood.

SECTION II:

That the Director of Finance is hereby authorized and directed to certify such delinquent charges, together with a certified copy of this resolution, to the Auditor of Montgomery County who shall enter the same on the tax duplicate to be collected as other taxes are collected.

SECTION III:

That it is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this resolution were adopted in an open meeting of this Council and that all deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

PASSED BY THE COUNCIL OF THE CITY OF OAKWOOD this 18th day of July, 2022.



Mayor William D. Duncan

ATTEST:



Clerk of Council

TO THE CLERK:

Publication is not required.



City Attorney Robert F. Jacques

EXHIBIT A
CITY OF OAKWOOD
2022 NOXIOUS WEEDS CERTIFICATION

ACCOUNT	PARCEL ID	LOCATION	CERTIFIED AMOUNT
01700-004 (RAND, CHARRISA)	Q71 00402 0016	621 ORLANDO TERR	162.96
05899-002 (THORNTON, JANICE E)	Q71 00403 0010	1 MAHRT AVE	1166.58
05149-002 (POLETE, SEAN)	Q71 00603 0004	410 RUBICON RD	294.57
04082-002 (SCHANTZ, THOMAS G.)	Q71 00708 0002	825 FAR HILLS	402.08
07585-002 (LEMBERG, DAVID)	Q71 00901 0001	1221 OAKWOOD AVE	191.38
00629-004 (SELL, STEPHANIE & BRIAN)	Q71 00907 0012	1900 COLLIDGE	172.62
00580-002 (POPE, NANCY)	Q71 01206 0030	303 WONDERLY AVE	955.65
06646-002 (EMMONS, WOLFGANG)	Q71 01310 0052	433 PEACH ORCHARD AVE	352.3
02802-002 (HAWK, BARBARA SPENCER)	Q71 01403 0016	339 FORRER BLVD	171.32
04306-002 (OLSON, NORMAN)	Q71 01603 0007	300 PATTERSON RD	150.66
			\$4,020.12