

THE CITY OF STREETSBORO, OHIO

SPECIAL SERVICE COMMITTEE MEETING AGENDA

Monday, July 29, 2024

TIME: 6:00 p.m.
PLACE: Streetsboro City Council Chambers
CHAIR: Anthony Lombardo 440-669-6922
VICE-CHAIR: Jon Hannan 330-931-5451

1. **Call to Order**
2. **Roll Call**
3. **Special Business**
Second Work Session to Discuss T-7612 Amend Code Regarding Nuisance Properties (Bill Miller, Andrei Nova)
4. **Announcements**
There will be a Public Hearing-Agricultural Placement, a Public Hearing-Sec 1165 Site Development Regulations, a Safety Committee, a Service Committee, and a Regular Council Meeting on Monday, August 12, 2024, starting at 7:00 p.m. in Council Chambers.
5. **Adjournment**

Caroline Kremer

From: Andrei Nova
Sent: Wednesday, July 17, 2024 12:34 PM
To: Caroline Kremer
Subject: Council Request - existing chapters/sections

Existing regulations in the Code of Ordinances that relate to various elements contained in the proposed Nuisance Properties Ordinance [T-7612]:

- Please click [HERE](#) for the **current** Chapter - Exterior Property Maintenance- Chapter 1346
- Please click [HERE](#) for the **current** Chapter - Weeds (tall grass)- Chapter 553
- Please click [HERE](#) for the **current** Section - UNSHELTERED STORAGE OF JUNK VEHICLES; MACHINERY; EQUIPMENT PROHIBITED.- Chapter 304, formerly 521.11
- Please click [HERE](#) for the **current** Chapter - Junked Motor Vehicles and Abandoned Motor Vehicles - Chapter 304
- Please click [HERE](#) for the **current** Chapter - Parking or Storage of Commercial Vehicles/Trailers in Residential Areas- Chapter 352
- Please click [HERE](#) for the **current** Chapter - Residential, Multi-Family, and Apartment Garbage and Refuse Collection - CHAPTER 941
- Please click [HERE](#) for the **current** Chapter – Litter- CHAPTER 531
- Please click [HERE](#) for the **current** Section - UNSAFE AND UNFIT BUILDINGS. - Section 1311.04
- Please click [HERE](#) for the **current** Chapter - Hazardous Materials Release - Chapter 1507

Andrei Nova
Zoning Inspector
City of Streetsboro
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Streetsboro Ohio 44241

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Streetsboro Ohio 44241

Note: This message and any response to it may constitute a public record and thus may be available to anyone who requests it.



Drafter's notes:

1. The purpose of this ordinance is to enable the City to use the law of nuisance to address problem properties in the City. Presently, the City operates pursuant to a section of the Codified Ordinances that is poorly drafted, underinclusive, and fails to comply with modern Due Process requirements. This was exemplified recently when the City was forced to file a lawsuit in Common Pleas Court and litigate for 9 months before finally obtaining an order permitting the City to abate a property nuisance. This would not have been necessary if City's ordinances were properly drafted.
2. Most if not all of the nuisances addressed in this revision are also covered by the City's Exterior Property Maintenance Code. However, the Property Maintenance Code does not permit the City to abate nuisances directly and does not permit the City to recover its costs for doing so. The common law concepts of nuisance have been utilized by local and state governments since the 19th century to address nuisance issues. Briefly, the difference between the City's regulatory authority and nuisance law is that an action under nuisance law is an enforcement action against the property itself ("*in rem*") and not against any person directly ("*in personem*"). This triggers the City's authority under state law to recover its costs via placement of a lien on the property. The 14th Amendment requires that due process of law be provided before any enforcement lien is placed on a property. This is why the ordinance provides an appeal process to the Owner.
3. Abandoned and junked motor vehicles are exempted from the ordinance's abatement procedures because state law prohibits the involuntary removal of motor vehicles from private property except in certain instances not applicable here.

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CLERK OF COUNCIL
STREETSBORO, OHIO

AN ORDINANCE RE-NAMING CHAPTER 531 OF PART FIVE (GENERAL OFFENSES CODE) OF THE CODIFIED ORDINANCES, AMENDING SECTIONS 531.01, 531.02, 531.03, 531.04, 531.05, 531.06 AND 531.99 THEREOF, ENACTING NEW SECTION 531.07 THEREOF, AND REPEALING CHAPTER 553 THEREOF, RELATING TO NUISANCE PROPERTIES AND NUISANCE ABATEMENT PROCEDURES.

WHEREAS, the Mayor recommends renaming Chapter 531 of the Codified Ordinances, as follows (new text underlined; deleted text in ~~strikethrough~~):

Chapter 531
Litter Nuisance Properties

and,

WHEREAS, the Mayor recommends amending Sections 531.01, 531.02, 531.03, 531.04, 531.05, 531.06, and 531.99 of the Codified Ordinances, to read in full as follows (new text underlined; deleted text in ~~strikethrough~~):

531.01 DEFINITIONS.

For the purpose of this Chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

(a) ~~“Authorized private receptacle” means a litter storage and collection receptacle as required and authorized in the City by Chapter 941.~~ “Building materials” means lumber, drywall, plywood, brick and concrete masonry units, stone, roofing, siding, flooring materials, insulation, pipe, wire, and bulk materials used in construction such as drywall compound, concrete, sand, gravel, aggregate, asphalt cement, etc.

(b) “Director” means the Director of Public Service.

(c) “Building parts” means doors, windows, plumbing fixtures, cabinets, light fixtures, and heating, ventilation and air conditioning equipment.

~~(b)(d)~~ (d) “Garbage” means discarded the matter, substance, or waste resulting from the growing, handling, storage, preparation, cooking, selling, serving, and/or consumption of food, including animal products (including fat and bones), fowl, fish, fruits and vegetables, grains, legumes, and condiments, including animal and bird feeds as well as contaminated containers used to prepare, serve or sell such matter.

(e) “Household appliances and equipment” means refrigerators, ranges, microwave ovens, dishwashers, clothes washers, dryers and other built-in and countertop appliances, and audio-visual equipment.

~~(f) “Motor vehicle” includes those vehicles defined in Ohio Revised Code Section 4501.01(B), as well as recreational vehicles as defined in Ohio Revised Code Section 4501.01(Q), motorcycles as defined in Ohio Revised Code Section 4501.01(ZZ), and mini-trucks as defined in Ohio Revised Code Section 4501.01(BBB).~~

(g) ~~“Litter” “Refuse” means garbage, refuse and rubbish, as defined herein, and all other waste material, including appliances, used or discarded building materials, roofing material, used or discarded siding material, used or discarded building parts lumber, broken concrete, broken asphalt, bricks, drywall, unauthorized signs within City rights of way, tree and shrub stumps, limbs, clippings, branches, and other waste building materials, which, if thrown, stored, or deposited, as herein prohibited, tends to create a danger to public health, safety, and welfare. “Litter” also includes abandoned property. For purposes of this chapter, abandoned property shall include, but is not limited to, property left on any public right of way for a period of forty eight hours or longer. “Litter” shall not include material that is deposited pursuant to a valid permit issued by the Building Inspection Division. “Litter” Refuse shall not include leaves placed in the street adjacent to the right of way in compliance with the City leaf program. For purposes of this section “signs” has the same meaning as in Codified Ordinance §1159.04. Refuse shall not include any intact motor vehicle, aircraft, watercraft or other form of conveyance defined and regulated under Title 45 of the Ohio Revised Code.~~

~~(d)~~(h) "Person" means any individual, firm, partnership, association, corporation, limited liability company or organization of any kind.

~~(e)~~(i) "Private premises" or "premises" means any dwelling, house, building, or other structure designed or used either wholly or in part for private residential purposes, whether inhabited or temporarily or continuously uninhabited or temporarily or continuously uninhabited or vacant and includes any yard, grounds, walk, driveway, sidewalks and abutting property between the property line and the curb line, porch, steps, vestibule or mailbox belonging or appurtenant to such dwelling, house, building or other structure. "Parcel of land" means any parcel of real property recognized by the Portage County Auditor for tax or assessment purposes, even if tax-exempt, but does not include publicly owned parcels, the public right of way, or dedicated public grounds.

(j) "Owner" means the person, corporation, partnership, limited liability company, or other entity identified on the tax duplicate of the Portage County Auditor as the record title owner of a parcel of land coming within the purview of this Chapter.

~~(f)~~ "Refuse" means all putrescible and non-putrescible solid wastes, (except body wastes), including, but not limited to, garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles, and solid market and industrial wastes.

(g)~~(k)~~ "Rubbish" means non-putrescible solid wastes consisting of both combustible and non-combustible wastes such as paper (including newsprint, magazines, paperback books, etc.) paperboard, plastic, polystyrene and other packaging materials and containers, wrappings, cigarettes, cardboard and cardboard boxes, tin cans metal, plastic and glass containers, yard waste clippings, leaves, wood, glass, textiles including clothing, mattresses, bedding, carpet, drapery, crockery and similar materials.

(l) "Litter" means uncontained rubbish, including prepared food and drink containers, that may be carried, scattered, or disbursed by normal wind conditions.

(m) "Long-term" for the purposes of Section 531.02, means more than one year; the time is measured from the commencement of any outdoor storage, notwithstanding that some materials may have been stored for less than one year.

531.02 LITTER ON OCCUPIED PRIVATE PROPERTY. DECLARATION OF NUISANCE.

~~No person shall throw or deposit litter on any occupied private property within the City, whether owned by such person or not, except that the owner or person in control of private property may maintain authorized private receptacles for collection in such a manner that litter will be prevented from being carried or deposited by the elements upon any street, sidewalk, or other public place or upon any private property.~~

The following conditions are hereby declared to be nuisances:

(a) Non-ornamental gGrass, weeds, and any other non-ornamental, non-woody plants having grown eight inches (8") tall or higher:

- (1) On any parcel of land within a ~~platted residential subdivision~~ the R-1, R-2, R-3 and R-O zoning districts,
- (2) On any ~~portion of any~~ parcel of land within the I-1 zoning district used for residential purposes, and
- (3) On any ~~portion of any~~ parcel of land that is within thirty feet (30') of any public right of way or any private right of way that is open to the public within the B, B-T, C-3, and C-R zoning districts.

(b) Trees, brush, or other woody plants, growing on any parcel of land, that:

- (1) Obstruct any portion of a public right-of-way,
- (2) Present a risk, due to unstable conditions, of falling into a public right-of-way, and
- (3) In the opinion of the City Engineer, obstruct traffic sightlines necessary for safe vehicular travel.

(c) Long-term outdoor storage of refuse, new or used building materials, new or used building parts, signs, ~~motor vehicles, motor vehicle parts, trailers,~~ household appliances or equipment, indoor furniture, ~~wrecked or dismantled~~ pallets, fencing, bins, tanks and other bulk containers, construction equipment, ~~material handling equipment, road maintenance machines, equipment and tools,~~ landscaping machines, equipment and tools, public utility

fixtures and equipment, ladders, scaffolding, tools, or other unusable personal property, on any parcel of land not principally used for agricultural purposes provided, that long-term outdoor storage as described in this subsection (c) is not a nuisance when the materials stored are not visible from any abutting parcel or from the public right-of-way.

(d) Abandoned, unsecured buildings.

(e) Outdoor storage or deposition of hazardous materials or hazardous wastes (other than those regulated under Chapter 1507 of these Ordinances) that may become airborne or waterborne in such a manner that they may migrate off the parcel of land on which they are stored.

(f) Accumulations of litter of such extent that normal wind conditions may cause the litter to migrate to adjacent properties or public streets or rights-of-way.

531.03 OWNER TO MAINTAIN PREMISES FREE OF LITTER. FINDING OF PUBLIC NUISANCE APPLICABLE TO PARTICULAR PROPERTIES; NOTICE TO ABATE; SERVICE.

The owner or person in control of any private property shall at all times maintain the premises free of litter. However, this section shall not prohibit the storage of litter in authorized private receptacles for collection.

(a) Whenever the Zoning Inspector finds nuisance conditions defined under Section 532.02 to exist on any parcel of land, the Zoning Inspector shall issue a written Notice of Finding of Public Nuisance and Order to Abate (“Finding and Order” or “Notice”) to the owner. The Notice shall:

- (1) Specifically identify the nature of the nuisance, with reference to the applicable subsection of Section 531.02,
- (2) Order the owner, occupant, and/or person in charge control of the parcel to abate the nuisance completely and thoroughly, in compliance with any specific instructions contained in the Notice,
- (3) Specify a reasonable time in which to abate the nuisance, which shall take into account the nature and extent of the violation,
- (4) Advise the owner and/or person in control of the right to appeal the Notice to the Board of Zoning and Building Appeals, and
- (5) Advise the owner, occupant, and/or person in control of the abatement remedies that may be employed by the City of Streetsboro following the failure to abate the nuisance in conformance with the Notice.

Any owner or other person to whom a Finding and Order is directed shall have standing to appeal the Finding and Order to the Board of Zoning and Building Appeals pursuant to Section 1105.11.

(b) The Notice shall be served on the owner of the applicable parcel of land. Service may be made in accordance with the procedures applicable to zoning violations. If the parcel is occupied or under the control of persons or entities and not the owner, service shall be made on those persons or entities as well. However, the inability to obtain service on a responsible party or parties other than the owner shall not invalidate any action of the City to recover its costs for abatement of a nuisance under this Chapter. Service is presumed if the owner is served by certified mail at the tax mailing address of the owner identified on the records of the Portage County Auditor, or upon a statutory agent of the owner as identified on the records of the Ohio Secretary of State. If certified mail is returned “refused,” the Zoning Inspector may obtain service by the use of regular mail.

531.04 LITTER ON VACANT PRIVATE PROPERTY. TIME FOR ABATEMENT; APPEALS.

No person shall throw or deposit litter on any open or vacant private property within the City, whether owned by such person or not.

(a) The time permitted and specified by the Zoning Inspector for the Owner to abate any nuisance (“Abatement Deadline”) shall not be less than twenty (20) calendar days following service of the Notice, except in the case of tall grass or weeds, in which case the Abatement Deadline may be as few as five (5) calendar days following service of the Notice. The Zoning Inspector may grant extensions of time upon request.

(b) An owner or other person subject to a Finding and Order may appeal the finding or the abatement order to the Board of Zoning and Building Appeals (“Board”) by filing an appeal with the Board no later than twenty (20) days following service of the Finding and Order (“Appeal Deadline”). The Board may affirm, reverse, or modify the Finding and Order in accordance with its authority under Section 1105.08(a) of these Ordinances. The Board’s decision may be reviewed only in accordance with Chapter 2506 of the Ohio Revised Code.

(c) Pursuant to Section 531.06(b), the Director may proceed to abate the nuisance using City resources if an appeal is not filed as of the Abatement Deadline. If the nuisance has been abated by the City prior to the Appeal Deadline, an Owner’s timely appeal is nevertheless not moot and shall be heard by the Board.

531.05 CLEARING OF LITTER BY CITY. DURATION OF FINDING.

~~(d) — Notice to Remove. The Director of Public Service is authorized to notify the owner of any open or vacant private property or any other private property within the City or the agent of such owner to properly dispose of litter located on such owner’s premises that is dangerous to public health, safety, or welfare. Such notice shall be personally delivered to such owner or his agent or shall be posted at the residence or place of business of such owner or his agent if personal service cannot be obtained.~~

~~(e) — Action Upon Noncompliance. On the failure, neglect, or refusal of any owner or agent notified to properly dispose of litter dangerous to the public health, safety, or welfare within forty-eight hours after service, as provided in subsection (a) hereof, the Director of Public Service shall cause such litter to be removed and may employ the necessary labor to perform such work or cause it to be done by the City.~~

~~(f) — Expenses as a Lien. All expenses so incurred by the Director of Public Service and the cost of such notice shall be reported to the Director of Finance, who shall mail a statement thereof to the owner of the land, if his address is known. If after 30 days such amount remains unpaid, the Director of Finance shall certify the total amount of the expense, the name of the owner of the land, and a sufficient description of the premises, to the Auditor of Portage County, to be entered upon the tax duplicate, to be a lien on the land from the date of entry, to be collected as other taxes and assessments returned to the City, pursuant to Ohio R.C. 731.54. The remedy provided for herein shall be in addition to the penalties provided in Section 941.99.~~

Unless specified herein, a finding of a public nuisance shall expire upon abatement of the nuisance or a decision of the Board or a court of proper jurisdiction terminating the finding.

531.06 MULTIPLE OFFENSES. DUTY TO PREVENT AND ABATE NUISANCES; REMEDY FOR NONCOMPLIANCE.

~~A separate offense shall be deemed committed each day during or on which a violation of any of the provisions of this chapter occurs or continues.~~

(a) Every owner of a parcel of land within the City shall maintain such land, or cause such land to be maintained, free from the nuisance conditions defined in this Chapter. It is the policy of the City that this Chapter shall define the conditions that constitute public nuisance, authorize the abatement of nuisances by the City where necessary, and to establish the procedures for the abatement of nuisances and recovery of the City’s expenses, in order to protect the health, safety and welfare of the community, and to prevent conditions that impair or adversely affect the value of affected properties. When a nuisance exists on a parcel owned by the City, the Director of Public Service shall abate the nuisance using funds appropriated for such purpose, and no notice under Section 531.03 shall be required.

(b) Upon the failure, neglect, or refusal of any owner to abate a nuisance on or before the Abatement Deadline, and as required by and specified in a Finding and Order properly served on such owner, the Director shall cause such nuisance to be abated in conformance with the Finding and Order, and may employ the necessary labor to perform such work or cause it to be performed by City forces.

(c) In the event of a timely appeal, the owner shall conduct the abatement in conformance with the resolution determined by the Board or as finally determined in any further appeal, unless the Director causes the nuisance to be abated prior to the resolution of

an appeal. The appeal is not rendered moot by such action. An Owner's timely appeal is not moot and shall be heard by the Board notwithstanding that the nuisance has been abated.

(d) After all opportunity for appeal has been exhausted, and in the absence of a successful appeal, all abatement expenses incurred by the Director shall be reported to the Director of Finance, who shall mail a statement thereof to the owner of the subject parcel of land. If after 30 days such amount remains unpaid, the Director of Finance shall certify the total amount of the expense to the Portage County Auditor, to be entered upon the tax duplicate of the subject parcel as a lien on the land from the date of entry, to be collected as taxes and assessments, pursuant to Ohio R.C. 731.54. The remedy provided for herein shall be in addition to the penalties provided in Section 531.99.

531.99 PENALTY.

Except as otherwise provided in this section, whoever violates subsection (a) of Section 531.06 is guilty of a minor misdemeanor. If, within two years of the offense, the offender previously has been convicted of or plead guilty to the same offense, whoever violates subsection (a) of Section 531.06 is guilty of a misdemeanor of the third degree. ~~Whoever violates any provision in this Chapter 531 is guilty of a misdemeanor of the third degree, except that whoever violates the unauthorized sign within the City rights-of-way provision is subject to a warning for the first offense (a subsequent offense is subject to the penalty).~~

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Streetsboro, Portage County, Ohio, that:

SECTION 1: The title of Chapter 531 of the Codified Ordinances is hereby amended to read in its entirety as follows:

Nuisance Properties

SECTION 2. Existing Sections 531.01, 531.02, 531.03, 531.04, 531.05, 531.06, and 531.99 of the Codified Ordinances are hereby amended to read in full as follows:

531.01 DEFINITIONS

For the purpose of this Chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

(a) "Building materials" means lumber, drywall, plywood, brick and concrete masonry units, stone, roofing, siding, flooring materials, insulation, pipe, wire, and bulk materials used in construction such as drywall compound, concrete, sand, gravel, aggregate, asphalt cement, etc.

(b) "Building parts" means doors, windows, plumbing fixtures, cabinets, light fixtures, and heating, ventilation, and air conditioning equipment.

(c) "Director" means the Director of Public Service.

(d) "Garbage" means discarded matter, substance, or waste resulting from the growing, handling, storage, preparation, cooking, selling, serving, and/or consumption of food, including animal products, fowl, fish, fruits, vegetables, grains, legumes, and condiments, as well as contaminated containers used to prepare, serve, or sell such matter.

(e) "Household appliances and equipment" means refrigerators, ranges, microwave ovens, dishwashers, clothes washers, dryers and other built-in and countertop appliances, and audio-visual equipment.

(f) "Litter" means uncontained rubbish, including prepared food and drink containers, that may be carried, scattered, or disbursed by normal wind conditions.

(g) "Long term," for the purposes of Section 531.02, means more than one year; the time is measured from the commencement of any outdoor storage, notwithstanding that some materials may have been stored for less than one year.

(h) "Owner" means the person, corporation, partnership, limited liability company, or other entity identified on the tax duplicate of the Portage County Auditor as the record title owner of a parcel of land coming within the purview of this Chapter.

(i) "Parcel of land" means any parcel of real property recognized by the Portage County Auditor for tax or assessment purposes, even if tax-exempt.

(j) "Person" means any individual, firm, partnership, association, corporation, limited liability company or organization of any kind.

(k) "Refuse" means garbage and rubbish, as defined herein, and all other waste material, including appliances, used or discarded building materials, used or discarded building parts, tree and shrub stumps, limbs, clippings, branches, and other waste building materials. Refuse shall not include leaves placed adjacent to the right of way in compliance with the City leaf program. Refuse shall not include any intact motor vehicle, aircraft, watercraft or other form of conveyance defined and regulated under Title 45 of the Ohio Revised Code.

(l) "Rubbish" means non-putrescible solid wastes consisting of both combustible and non-combustible wastes such as paper (including newsprint, magazines, paperback books, etc.) paperboard, plastic, polystyrene and other packaging materials and containers, cardboard and cardboard boxes, metal, plastic and glass containers, yard waste, wood, glass, textiles including clothing, mattresses, bedding, carpet, drapery, crockery, and similar materials.

531.02 DECLARATION OF NUISANCE.

The following conditions are hereby declared to be nuisances:

The following conditions are hereby declared to be nuisances:

(a) Non-ornamental grass, weeds, and any other non-ornamental, non-woody plants having grown eight inches (8") tall or higher:

(1) On any parcel of land within the R-1, R-2, R-3 and R-O zoning districts,

(2) On any parcel of land within the I-1 zoning district used for residential purposes, and

(3) On any parcel of land within the B, B-T, C-3, and C-R zoning districts.

(b) Trees, brush, or other woody plants, growing on any parcel of land, that

(1) obstruct any portion of a public right-of-way,

(2) present a risk, due to unstable conditions, of falling into a public right-of-way, and

(3) in the opinion of the City Engineer, obstruct traffic sightlines necessary for safe vehicular travel.

(c) Long-term outdoor storage of refuse, new or used building materials, new or used building parts, signs, motor vehicle parts, household appliances or equipment, indoor furniture, pallets, fencing, bins, tanks and other bulk containers, construction equipment, material handling equipment, road maintenance machines, equipment and tools, landscaping machines, equipment and tools, public utility fixtures and equipment, ladders, scaffolding, tools, or other unusable personal property, provided, that long-term outdoor storage as described in this subsection (c) is not a nuisance when the materials stored are not visible from any abutting parcel or from the public right-of-way.

(d) Abandoned, unsecured buildings.

(e) Outdoor storage or deposition of hazardous materials or hazardous wastes (other than those regulated under Chapter 1507 of these Ordinances) that may become airborne or waterborne in such a manner that they may migrate off the parcel of land on which they are stored.

(f) Accumulations of litter of such extent that normal wind conditions may cause the litter to migrate to adjacent properties or public streets or rights-of-way.

531.03 FINDING OF PUBLIC NUISANCE APPLICABLE TO PARTICULAR PROPERTIES; NOTICE TO ABATE; SERVICE.

(a) Whenever the Zoning Inspector finds nuisance conditions defined under Section 532.02 to exist on any parcel of land, the Zoning Inspector shall issue a written Notice of Finding of Public Nuisance and Order to Abate ("Finding and Order" or "Notice") to the owner. The Notice shall:

(1) Specifically identify the nature of the nuisance, with reference to the applicable subsection of Section 531.02,

- (2) Order the owner, occupant, and/or person in control of the parcel to abate the nuisance completely and thoroughly, in compliance with any specific instructions contained in the Notice,
- (3) Specify a reasonable time in which to abate the nuisance, which shall take into account the nature and extent of the violation,
- (4) Advise the owner and/or person in control of the right to appeal the Notice to the Board of Zoning and Building Appeals, and
- (5) Advise the owner, occupant, and/or person in control of the abatement remedies that may be employed by the City of Streetsboro following the failure to abate the nuisance in conformance with the Notice.

Any owner or other person to whom a Finding and Order is directed shall have standing to appeal the Finding and Order to the Board of Zoning and Building Appeals pursuant to Section 1105.11.

(b) The Notice shall be served on the owner of the applicable parcel of land. Service may be made in accordance with the procedures applicable to zoning violations. If the parcel is occupied or under the control of persons or entities and not the owner, service shall be made on those persons or entities as well. However, the inability to obtain service on a responsible party or parties other than the owner shall not invalidate any action of the City to recover its costs for abatement of a nuisance under this Chapter. Service is presumed if the owner is served by certified mail at the tax mailing address of the owner identified on the records of the Portage County Auditor, or upon a statutory agent of the owner as identified on the records of the Ohio Secretary of State. If certified mail is returned "refused," the Zoning Inspector may obtain service using regular mail.

531.04 TIME FOR ABATEMENT; APPEALS.

(a) The time permitted and specified by the Zoning Inspector for the Owner to abate any nuisance ("Abatement Deadline") shall not be less than twenty (20) calendar days following service of the Notice, except in the case of tall grass or weeds, in which case the Abatement Deadline may be as few as five (5) calendar days following service of the Notice. The Zoning Inspector may grant extensions of time upon request.

(b) An owner or other person subject to a Finding and Order may appeal the finding or the abatement order to the Board of Zoning and Building Appeals ("Board") by filing an appeal with the Board no later than twenty (20) days following service of the Finding and Order ("Appeal Deadline"). The Board may affirm, reverse, or modify the Finding and Order in accordance with its authority under Section 1105.08(a) of these Ordinances. The Board's decision may be reviewed only in accordance with Chapter 2506 of the Ohio Revised Code.

(c) Pursuant to Section 531.06(b), the Director may proceed to abate the nuisance using City resources if an appeal is not filed as of the Abatement Deadline. If the nuisance has been abated by the City prior to the Appeal Deadline, an Owner's timely appeal is nevertheless not moot and shall be heard by the Board.

531.05 DURATION OF FINDING.

Unless specified herein, a finding of public nuisance shall expire upon abatement of the nuisance or a decision of the Board or a Court of proper jurisdiction terminating the finding.

531.06 DUTY TO PREVENT AND ABATE NUISANCES; REMEDY FOR NONCOMPLIANCE.

(a) Every owner of a parcel of land within the City shall maintain such land, or cause such land to be maintained, free from the nuisance conditions defined in this Chapter. It is the policy of the City that this Chapter shall define the conditions that constitute public nuisance, authorize the abatement of nuisances by the City where necessary, and to establish the procedures for the abatement of nuisances and recovery of the City's expenses, in order to protect the health, safety and welfare of the community, and to prevent conditions that impair or adversely affect the value of affected properties. When a nuisance exists on a parcel owned by the City, the Director of Public Service shall abate the nuisance using funds appropriated for such purpose, and no notice under Section 531.03 shall be required.

(b) Upon the failure, neglect, or refusal of any owner to abate a nuisance on or before the Abatement Deadline, and as required by and specified in a Finding and Order properly served on such owner, the Director shall cause such nuisance to be abated in conformance with the Finding and Order, and may employ the necessary labor to perform such work or cause it to be performed by City forces.

(c) In the event of a timely appeal, the owner shall conduct the abatement in conformance with the resolution determined by the Board or as finally determined in any further appeal, unless the Director causes the nuisance to be abated prior to the resolution of an appeal. An Owner's timely appeal is not moot and shall be heard by the Board notwithstanding that the nuisance has been abated.

(d) After all opportunity for appeal has been exhausted, and in the absence of a successful appeal, all abatement expenses incurred by the Director shall be reported to the Director of Finance, who shall mail a statement thereof to the owner of the subject parcel of land. If after 30 days such amount remains unpaid, the Director of Finance shall certify the total amount of the expense to the Portage County Auditor, to be entered upon the tax duplicate of the subject parcel as a lien on the land from the date of entry, to be collected as taxes and assessments, pursuant to Ohio R.C. 731.54. The remedy provided for herein shall be in addition to the penalties provided in Section 531.99.

531.99 PENALTY.

Except as otherwise provided in this section, whoever violates subsection (a) of Section 531.06 is guilty of a minor misdemeanor. If, within two years of the offense, the offender previously has been convicted of or plead guilty to the same offense, whoever violates subsection (a) of Section 531.06 is guilty of a misdemeanor of the third degree.

SECTION 3. New Section 531.07 of the Codified Ordinances is hereby enacted to read in full as follows:

531.07 EMERGENCIES.

In the event of a bona fide emergency endangering the public health, safety, or welfare, the Zoning Inspector shall designate on the Notice that the matter is an emergency. Upon such a designation, the Service Director may proceed to immediately abate the nuisance in an appropriate manner, including:

- (a) effective boarding of vacant, unsecured, and abandoned buildings,
- (b) partial or complete demolition of unsafe and/or unstable structures threatening adjacent structures or the public right-of-way,
- (c) removal of trees fallen across a public right-of-way, or
- (d) removal of hazardous materials that would otherwise contaminate adjacent properties.

The Zoning Inspector shall endeavor to give as much notice to the owner as possible, but the City's cost recovery remedy for the abatement shall remain available, subject to timely appeal.

SECTION 4: Existing Sections 531.01, 531.02, 531.03, 531.04, 531.05, and 531.06 of the Codified Ordinances, as enacted by Ord. No. 1997-150, passed November 24, 1997, are hereby repealed. Existing Section 531.99 of the Codified Ordinances, as amended by Ord. No. 2006-136, passed September 25, 2006, is hereby repealed. Existing Chapter 553 of Part Five of the Codified Ordinances, enacted by Ord. No. 2004-119, passed August 2, 2004, is hereby repealed in its entirety.

SECTION 5: It is found and determined that all formal actions of this Council concerning and relating to the adoption of this ordinance were adopted in an open meeting of this Council and that all deliberations of this Council and any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements, to the extent applicable, including Chapter 107 of the Codified Ordinances.

SECTION 6: This ordinance shall take effect and be in force at the earliest period allowed by law upon its passage and approval by the Mayor.

PASSED: _____
Date Steve Michniak, President of Council

ATTEST: _____
Caroline L. Kremer, Clerk of Council

APPROVED: _____
Date Glenn M. Broska, Mayor

Prepared and approved as to legal content by: _____
David Nott, Law Director

Date Submitted to Mayor for Approval: _____ Returned: _____

Sponsored by: Law Director