



TITLE #: 23
Ordinance #: 10-21-11-033

Date: October 21, 2011

AN ORDINANCE GOVERNING the MAINTENANCE of GRASS, WEEDS, TREES and PLANT GROWTH

Description: An ordinance of the Town of Cheswold to set the minimum standards for property owners within the corporate limits of Cheswold to control and maintain grass, and control weeds and plant growth.

The ordinance at times may be referred to as the Grass Ordinance, or the Grass Maintenance Ordinance or the Grass Cutting Ordinance.

In addition, the ordinance provides a process for determining violations of said ordinance and a procedure to apply penalties for said violations.

Section 1. PURPOSE

This ordinance is intended to protect the public safety, health and welfare of the residents of Cheswold by establishing a minimum standard for grass and weed growth, that will deter the accumulation of reptiles, insects and maintain a visibly consistent environment.

Section 2. APPLICABILITY

This ordinance shall be applicable to all property owners within the corporate limits of Cheswold, whether residential, commercial, retail or wholesale and whose property sustains grass and weed growth.

Section 3. DEFINITIONS

3.1 As used in this ordinance, the following terms shall have the specified meaning:

3.1.1 Code Official – shall mean the employee who is charged with the administration and enforcement of this Ordinance, or any duly authorized representative.

3.1.2 Enforcement Officer – shall mean the employee designated herein or otherwise charged with the responsibilities of administering this Ordinance, or the duly authorized representative by the Town Council of the Town of Cheswold.

3.1.3 Owner/s – shall mean any person, agent, operator, firm or corporation having a legal or equitable interest in the property; or recorded in the official records of the State, County or Municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

3.1.4 Exterior Property – shall mean the open space on the premises and on adjoining property under the control of owners or operators of such premise.

Section 3. DEFINITIONS – “continued”

3.1.5 Person/s – shall mean an individual, corporation, partnership or any other group acting as a unit.

3.1.6 Plant Growth – shall mean the irreversible increase in the size of a plant.

3.1.7 Property – shall mean real property and includes all land, structures, firmly attached and integrated equipment; anything growing on the land, and all interests in the property.

3.1.8 Renter – shall mean any person permitted to occupy a dwelling, dwelling unit, rooming unit, building, premise or structure who is not the legal owner of record thereof, pursuant to a written or unwritten lease, agreement or license, or pursuant to a recorded or unrecorded agreement of contract for the sale of said dwelling, dwelling unit, rooming unit, building, premise, structure or land on which it resides.

3.1.9 Sidewalk – shall mean and include any portion of a street between the curb-line, or the lateral lines of a roadway where there is no curb, and the adjacent property line, intended for the use of pedestrians.

3.1.10 Street – shall include avenues, boulevards, highways, roads, squares, alleys, lanes, courts, viaducts, bridges, drives, roadways, and the approaches thereto and all other public thoroughfares in the Town and shall mean the entire width thereof between abutting property lines; and it shall be construed to include a sidewalk or footpath, unless the contrary is expressed or unless such construction would be inconsistent with the manifest intent of the Council. The word “street” shall not include “freeways”, “throughways”, “expressways” or any other “controlled access facility as authorized by State of Delaware Code Section 17; Paragraphs 171-180.

3.1.11 Structure – shall mean that which is built or constructed, including, without limitation because of enumeration,

3.11.1 buildings for any occupancy or use whatsoever,

3.11.2 fences,

3.11.3 signs,

3.11.4 billboards,

3.11.5 fire escapes

3.11.6 chute escapes

3.11.8 railings

3.11.9 water tanks

3.11.10 towers

3.11.11 open grade steps

3.11.12 sidewalks or stairways

3.11.13 tents

3.11.14 anything erected and framed to component parts which is fastened, anchored or rests on a permanent foundation or on the ground.

3.1.12 Tenant – shall mean a person, corporation, partnership or group, whether or not the legal owner of record, occupying a building or portion thereof as a unit.

Section 3. DEFINITIONS – “continued”

- 3.1.13 **Trees** – shall mean a woody perennial plant having a single usually elongate main stem generally with few or no branches on its lower part
- 3.1.14 **Yard** – shall mean an open unoccupied space on the same lot with a building extending along the entire length of the street, or rear or interior lot line.
- 3.1.15 **Weed/s** – shall mean a wild plant growing where it is not wanted and in competition with cultivated plants.

Section 4. WORD USAGE and INTERPRETATION

4.1 As used in this Ordinance, the following terms shall have the specified meaning:

- 4.1.1 **Gender** – shall mean and include male, female and neuter.
- 4.1.2 **Includes** - shall mean that there is no limit to a term to the specific example, but is intended to extend its meaning to all other instances or circumstances of like kind or character.
- 4.1.3 **May** – shall mean permissive.
- 4.1.4 **May not** – shall mean that there is a prohibitory effect in place and shall state a prohibition.
- 4.1.5 **Must** – shall mean mandatory.
- 4.1.6 **Shall** – is to be construed as being mandatory.
- 4.1.7 **Tense** – shall mean words used in the past or present tense include the future as well.

Section 5. APPLICABILITY & COMPLIANCE

5.1 This Ordinance shall apply to all property owners, renters and/or tenants of all real property within the corporate limits of the Town of Cheswold.

5.2 This Ordinance is in compliance with the provisions of the ICC Property Maintenance Code, adopted by Ordinance #08-05-11-025.

Section 6. UNLAWFUL ACTION

6.1 It shall be unlawful for any person, group of persons, firm, association or corporation to permit any grass, weeds or other vegetation whatsoever, other than eatable vegetables, trees, shrubs or flowers, to grow higher than six inches, (6), from the ground on property of ground within the corporate limits of the Town of Cheswold, whether or not any improvements have been erected on said property.

Section 6. UNLAWFUL ACTION “continued”

6.2 It shall be unlawful for any person, group of persons, firm, association or corporation in predominantly residential areas either owner-occupied, let for occupancy or let, to not keep free from weeds or plant growth which are noxious or detrimental to the public health and welfare and unlawful not to trim them to a height of not more than 6 inches.

6.3 It shall be unlawful for any person, group of persons, firm, association or corporation in the Town of Cheswold to allow and/or permit trees to obstruct sidewalks, overhead wires, signage or to extend beyond owner property lines.

6.4 It shall be unlawful for any person, group of persons, firm, association or corporation in the Town of Cheswold to defer the removal of grass clippings from the sidewalk or streets immediately surrounding the property on which grass has been moved. That is, grass clippings must be removed on the same day that the grass is cut.

Section 7. ENFORCEMENT

7.1 The provisions of this ordinance shall be enforced by the Code Enforcement Officer of the Town of Cheswold or by the designee of the Town Council.

Section 8. PROCESS

8.1 The notice of a violation of this Ordinance shall be delivered in writing to the property owner, occupant, tenant, or responsible party, in person, or by certified mail with a returned receipt requested.

8.2 If an owner, occupant, tenant or responsible party cannot be found, the order may be served by posting it on the property.

8.3 The order shall cite the violation and state the corrective action to be taken and shall state the consequences for failure to take said corrective action.

Section 9. FAILURE TO COMPLY

9.1 If the violation is not cleared within ten, (10), days from the receipt of such notice, the Code Enforcement Officer of the Town of Cheswold or the designee of the Town Council, is authorized to enter upon such premises, or through such persons, firms, or associations under contract to the Town, for the purpose of removing said grass or weeds, and charging the cost of the removal of said nuisance against the property owner.

9.2 The cost of removing the grass, trees or weeds shall include not only the cost of labor and materials, but in the event that the Town is forced to levy upon the property for collection of the cost, then the cost will additionally include whatever Court costs are actually incurred, to include actual attorney’s fees for the removal of the grass, trees, or weeds.

Section 9. “continued” - FAILURE TO COMPLY

9.3 If the property owner fails or refuses to remove the collection of any rubbish or trash that may be associated with the removal of weeds, trees or shrubs, ten, (10), days after receiving notification of the condition, he shall be guilty of common nuisance.

9.4 Each day that a violation is allowed to continue after receipt of notice of said violation shall constitute a separate offense.

Section 10. FAILURE TO COMPLY

10.1 Any person violating any of the provisions of this ordinance shall for each such offense be punished by a fine of the following schedule:

- **First Offense:** Not less than ten dollars, (\$10.00),
nor more than fifty dollars, (\$50.00)

- **Each Subsequent Offense:** Not less than twenty-five dollars, (\$25.00),
nor more than one hundred dollars, (\$100.00);
or imprisonment for not more than ten, (10), days.

Section 11. Severability

11.1 If any provision of this Ordinance or any application of this Ordinance to any particular entity or circumstance shall be deemed invalid, such invalidity shall not affect any other provision or application of this Ordinance, which may otherwise be given effect and to this end the provisions of this Ordinance are hereby declared to be severable.

Section 15. EFFECTIVE DATE

This ordinance and the rules, regulations, provisions, requirements, orders, administration and management and matters established and adopted hereby shall take effect and be in full force and effect from July 1, 2012 and after the date of its final passage and adoption.

Ordinance No. 10-21-11-033 entitled, Grass Maintenance Ordinance was duly adopted by a majority vote of the Cheswold Town Council at the Council meeting held on Monday, June 4, 2012, at which a quorum was present.

I, Donald F. Tinari, Mayor of the Town of Cheswold, do hereby certify that the foregoing is a true and correct copy of the Resolution passed by an affirmative majority vote of all elected members of the Town Council of Cheswold at a regularly scheduled Town Council Meeting, held on, Monday, June 4, 2012, at which a quorum was present and voting throughout, and that the same is still in force and effect.

CERTIFIED: _____
Donald F. Tinari - Mayor

Date: June 4, 2012

ATTEST: _____
Theon E. Callender - Secretary/Treasurer

Date: June 4, 2012

Agreed: _____
Vice-Mayor Kenneth H. Brown

Date: June 4, 2012

Agreed: _____
Councilperson Sonia Gassaway

Date: June 4, 2012

Agreed: _____
Councilperson Linda Perry

Date: June 4, 2012

Agreed: _____
Councilperson Mildred Johnson

Date: June 4, 2012

NOTARIZED: _____
Shadina Jones – Town Clerk

Date: June 5, 2012

Resolution No.: 02-29-12-033

Primary Sponsor: Secretary/Treasurer Theon E. Callender
Co-Sponsor: n/a

Introduction: March 5, 2012