

Utilities and Streets Committee Minutes January 27, 2025

PRESENT: Committee Chair Sue Durichko, Committee Vice-Chair Chris Kolezynski, Committee member Stephanie Palmisano and Council Clerk Allen.

ADMINISTRATION PRESENT: Mayor Gallo, Director Schneider, Director Sepik, Renee Overstreet

The meeting was called to order on Monday, January 27, 2025 by Chairwoman Durichko at 6:19 p.m.

Chairwoman Durichko asked for a motion to approve the minutes December 16, 2024; Moved by Kolezynski; Seconded by Palmisano

Clerk Allen, Roll Call: **Aye: Kolezynski, Palmisano, Durichko**

Minutes approved

Chairwoman Durichko: Beginning with Chapter 678.01: Weeds. I would like to draw attention to the administration who is here this evening to help us with questions and to thank you for your time. We did want to get some feedback related to our recommended changes to 678.01 Weeds. I would like to ask the Directors if they would like to address anything in particular and have an open conversation regarding those recommendations.

Mayor Gallo began by stating that the administration has the recommended changes that this committee was able to bring forward from the last meeting however, if we can provide a little more about the process and why the language that was previously adopted could still be applicable or if the new ideas from the committee and administration could be incorporated into the amendments and how that could affect business going forward. Madame Chair perhaps you could begin with one in particular that the committee feels strongly about and then the administration could provide any input on that.

Chairwoman Durichko stated that the expertise that we are seeking is in regard to the recommendations related to timeframe for notice of violations to this code and how long the resident will have to correct the issue. Additionally, we want to consider decreasing the degree of offense from a misdemeanor in the second degree to a minor misdemeanor potentially.

Director Schnieder added that just as a general thought as Law Director, I can tell you what this says on paper, but as far as what the requirements are, I think it might be helpful to have the Service Department can take us through precisely how this translates into their actual process. If we know what the current process is, then maybe we can start looking into this further. I have some thoughts on the degrees of offences from my perspective, I think it would be helpful to hear what the current process is first.

Director Sepik continued with explaining how the Building Department process works. Jeff West is our Property Maintenance Inspector, while he is out in the community, if he notices lawns or weeds that aren't been maintained, first he'll knock on the door and try to speak with the homeowner. If there is no answers, we leave a note on the door to call him to find out more of why the property isn't being maintained. Once he makes contact with a person, he has a verbal with them stating that they have 3 days to clean it up and asked if they can do that. We try to get their feedback and see what their situation is, if they are elderly and their landscaper won't be able to get there that quickly. We will work with them as long as they stay in contact with us and we know what the situation is, we'll give them more time. If we go and talk with them and they say no problem we'll get it done, 3 days come Jeff will

go back and nothing is done, well now he will write them a notice giving them 72 hours in which to comply. If they contact us after that we're still willing to work with them and not do anything. That being said, if they don't contact us and don't do anything, and a day becomes available for our staff to go cut it, then we're going to do it and charge what they can be charged up to. Everything is well documented with photos, copies of notices, documentation of visits. For example, if we give our first verbal notice on a Friday, he will then go back out on the following Wednesday giving a 72-hour notice which bring us to either Friday or Monday, we're not going out and cutting until Thursday or Friday of the next week. The neighbors are the ones calling on these folks, our concern is with the other residents that live in that area also.

Chairwoman Durichko thanked the directors for walking this committee through the process. I do want to say from my experience, I've seen that the city has been very generous with helping people in regard to their lawns. But, to clarify we were talking about the specific lists of noxious weeds referenced in this code and kept by the state. These weeds are required to be removed in a particular fashion at times with certain chemical agents and at other times other chemical agents at times it requires digging and at other times it does not. We are talking about very invasive species as listed.

Director Sepik added that if we give someone a citation on weeds, we're not going to ask them what chemical are they planning on using, we're hoping they're going to dig them out. It's not always the case. Just so that it doesn't re-grow, we're trying to maintain growth afterwards. Yes, we can keep track of the chemicals they can use, but we can't tell the resident what to use.

Chairwoman Durichko mentioned that some of the original language probably needs to be addressed.

Director Schneider added that even though this is a weeds issue, asked the Service Director how frequent these issues come up or even how often they go to the court?

Director Sepik stated that it's more on the grass end that we have to issue citations, not so much with the weeds.

Chairwoman Durichko stated that this committee wasn't addressing the grass, it was specifically the weeds. We know that the city will do the grass cutting and then add it to the tax assessment. We were asked to address weeds in particular in this piece of legislation. We are not clear on that process.

Mayor Gallo added with the reference to the ORC in relation to the chemicals being used, the Law Director does not have it in front of him either, we will look into that and we do have authority to divert from that as well.

Chairwoman Durichko stated that I do have one edit that was suggested by this committee and the current language reads: 678.01 (a) (2) Such weeds shall be destroyed by spraying with a chemical compound approved by the Director of Public Service, by cutting or digging under or by any other method approved by the Director. Our suggested edit to this section was: Noxious weeds must be removed and/or destroyed through methods approved by the Director of Public Service, such as approved chemical treatment, cutting or digging. A listing of approved methods and chemicals will be maintained by the Director of Public Service. Because there was no clarity.

Director Sepik stated that if the resident came to us and asked what can we use to remove these weeds. We would listen to them, ask to see a sample, ask what they have, if they were over the counter chemicals. As long as it is sold over the counter, we don't have an objection and we can't regulate what everybody is spraying in their yards.

Chairwoman Durichko stated that this committee will need to look at it again after this meeting.

Director Schneider added that in talking with the Director of Service, I asked if during the past three years of this administration, have we had any instances where this section of weeds has been taken to the court and to the Service Departments recollection there has not been one instance where this has come into play. This does not seem to be

a major issue in our community that requires city intervention. We are happy to accommodate whatever the council's ultimate goal is and decision is.

Councilman Kolezynski mentioned that he had taken a look at surrounding cities. Cleveland has a punishment of a minor-misdemeanor, Middleburg Heights, Independence are both minor-misdemeanor. Brooklyn is fourth degree misdemeanor. Berea and Parma, Parma starts as a minor-misdemeanor but then after it occurs 4 times, it becomes a first-degree misdemeanor, Berea starts as a minor-misdemeanor but if there is a second offense within 1 year it becomes a fourth-degree misdemeanor. The majority of the cities around us are minor-misdemeanor which is no jail time, and that the other cities around us work their way up to a degree of offence that would require jail time or jail time might be enforced under. Is there a middle ground here? Can we phase up to that potentially?

Chairwoman Durichko added to be clear, this committee takes the maintenance and the beautification of the neighborhoods and the community as a whole seriously. We don't want to decrease our capacity, but our question is, is this misdemeanor of a second degree which carries with it the potential of jail time, too excessive for this ordinance?

Director Schneider responded that in talking with the Service Director, this is labeled as the Destruction of Noxious Weeds and Removal of Litter Required, however this is the area particularly under Sub-section B, that the city uses to cite for tall grass as well. I guess we all should be mindful of the unintended consequences that, as it sounds like a section labeled weeds, any changes we make here will have an affect on the cities ability to address tall grass which is an issue that has led to city intervention. I can appreciate the research that has been done with the other communities, it sounds like a mixed bag of where folks start. In general, property maintenance in those worse of the worse circumstances that do end up in court with this is the best way to follow through with enforcement is through internal probation. I've worked for the city for the past 14 years; I'd be surprised if at anytime we have sought out any jail time for such a circumstance. A minor-misdemeanor is punishable for up to \$150 fine; misdemeanor of a second degree is punishable for up to \$750 fine and up to 120 days jail time. The one thing that any offence that carries jail time, insures us is the ability to seek an order of probation which is often the tool that whether it be the Mayor's Court or the Municipal Court utilizes to ensure enforcement. If you're on probation you can have a day in jail hanging over your head, or I'm going to give you a day in jail suspended. It authorizes us to have a term of probation. We can hold a probation hearing on a certain date, I want to know if you are in compliance or if you're going to maintain compliance, without a penalty that carries a term of incarceration, we don't have that authority to issue a term of probation which is primarily a Municipal Court handles building infraction enforcement. I would recommend you continue to have that penalty carry a potential term of incarceration so that we have that term of enforcement probation. That would be my suggestion.

Mayor Gallo added that we have an excellent compliance rate because our ability to work with the residents and the advantage of having the Mayor's Court is that we are able to resolve more without it moving on to Municipal Court, residents are more likely to show up, it's not as intimidating and our Magistrate tries to work with these people to get them to comply.

Chairwoman Durichko thanked the mayor and Law Director for the explanation. With the explanation of the order of probation and the reminder to this committee that this ordinance includes potential blight with the grass height, and they are not separate from each other, it makes sense.

Councilman Kolezynski added that vacancy and blight are important issues, with his background in Urban Planning Education you watch a town fall apart because of blight and other issues like this. This is very important and it needs to be addressed, thank you Mark for informing us of the requirement of jail time for the order of probation. I think knowing that and the needing the ability to enforce to some extent. Maybe not the 90 – 120 days in jail, but certainly preserving some kind of jail time in this scenario because of the order of probation and because we want

to preserve this neighborhood is probably ideal. That being said maybe a fourth-degree misdemeanor or lower degree misdemeanor to allow the preservation of that order.

Chairwoman Durichko mentioned that she would ask this committee to take the time after this meeting to consider that. I think it's a fair consideration, and I'm looking at the time and we are coming up on it. Is there anything Councilwoman Palmisano that you'd like to add to the conversation?

Councilwoman Palmisano added that she pulled the average temperatures from 2000 to 2010 vs 2011 to 2024 and this was specifically relating to moving the start date from May 1st to April 1st for the enforcement time period and then moving the end date from November to December 1st. On the top page, I wrote the variance vs the previous 10 years and as you can see the average medium temperature for March and April have stayed the same in that 10-year period vs 14-year period, so I would suggest that we do not need to move the start date from May 1st to April 1st, I would like to keep the start date at May 1st.

Chairwoman Durichko asked how do you feel about moving the end dates?

Councilwoman Palmisano stated that she was okay with moving those dates. Because we have data to show that the average temperature is increasing going that direction but not in the spring months.

Chairwoman Durichko thanked her for doing the research and said it makes sense and thanked her for bringing the data.

Councilwoman Palmisano added that one other item I would like to add perhaps to the next meeting, there is a section that talks about when it is describing what litter would be, peeling of vegetable or fruit. What about compost bins or piles, maybe not everyone does their composting in a plastic bin, because they're cautious about the environment. Maybe it's just in an open pile? I would like to preserve their ability to compost outside of a container where it wouldn't be called blight or litter and that would include peelings of vegetables or fruit. Maybe we could include after what is already there "except for compost piles or something". Something I would like to discuss further at the next meeting if we can. That's all I had. I just think the residents should still have the ability to compost.

Chairwoman Durichko added the distinction between throwing a banana peel on the driveway versus putting it in the compost pile.

Mayor Gallo added that as a point of consideration, to please keep in mind that there should be something around it just to keep the raccoons and other animals out of the compost area. I just wanted to put it out there for your consideration.

Chairwoman Durichko asked if there was any other business to come before the committee?

Chairwoman Durichko asked for a motion to adjourn; Motioned by Kolezynski; seconded by Palmisano.

Council Clerk: Roll Call: **Aye: Palmisano, Kolezynski, Durichko**

Utilities and Streets Committee meeting is adjourned at 6:48 p.m.



Barbara Allen
Clerk of Council



Sue Durichko
Chair, Utilities and Streets Committee