



## CITY OF PATASKALA PLANNING AND ZONING COMMISSION

City Hall, Council Chambers  
621 West Broad Street  
Pataskala, Ohio 43062

### STAFF REPORT

January 2, 2019

#### Rezoning Application ZON-18-010

<b>Applicant:</b>	City of Pataskala
<b>Location:</b>	City Wide
<b>Request:</b>	Requesting to amend Section 521.11 – Weeds and Other Nuisances pursuant to Section 1217.10 of the Pataskala Code

#### Description of the Request:

The proposed amendment would amend the existing regulations in Section 521.11 of the Pataskala Code to expand the scope of properties subject to the Weeds and Other Nuisances regulations.

#### Staff Summary:

Section 521.11 prohibits grass and weeds from exceeding eight inches in height on commercially zoned properties and lots that are 1.5 acres or less. If a violation of this section is identified, the Zoning Inspector is to post a violation notice on the property and notify the owner by mail (if the owner is known) or publish a notice in a newspaper (if the owner is unknown). The property owner has seven (7) days to correct the violation. If the owner fails to correct the violation, the City is to have the violation corrected and place a lien on the property with the approval of Council.

Although Section 521.11 states that the City shall have the high grass and weeds mowed, the Planning and Zoning Department will pursue resolution of the violation through Mayor's Court if the property is occupied. The Planning and Zoning Department has concerns about safety if a mowing company was sent to an occupied property. If the property is unoccupied, the Planning and Zoning Department will have the grass and weeds mowed pursuant to the Code.

As originally proposed at the November 7, 2018 Planning and Zoning Commission hearing the amendment would expand the properties required to maintain grass and weeds under eight inches in height as follows:

#### Existing

1. All commercially zoned properties
2. All lots that are 1.5 acres or less

#### Proposed

1. All industrially zoned properties
2. All properties zoned PDD – Planned Development District
3. All properties zoned R-M – Multi-Family Residential
4. All properties zoned R-MH – Manufactured Home Residential

5. All properties located within a platted subdivision.

This amendment was presented to the Development Committee on September 17, 2018 who recommended that the Planning and Zoning Department proceed with the code amendment process.

At the November meeting, the Planning and Zoning Commission expressed some concerns that the proposed amendment could have some unintended consequences by including properties that should be exempt from the provisions of Section 521.11 but were not expressly indicated as such. The Planning and Zoning Department revisited the proposed amendment and has prepared the following revisions:

#### Existing

1. All commercially zoned properties
2. All lots that are 1.5 acres or less

#### Proposed

1. All properties zoned R-M – Multi-Family Residential
2. All properties zoned R-MH – Manufactured Home Residential
3. All properties located within a platted subdivision

#### Exclusions

1. Woodland areas
2. Subdivision reserves designated to remain in a natural state or for agricultural use.

#### Other Revisions

1. Removed the requirement that the notice of violation be physically posted on the property.
2. Changed the time-period to correct the violation from seven (7) days to 10 days.
3. Changed the notification method for property owners whose address is unknown from publishing in a newspaper of general circulation or electronic means.

A redline version of the proposed amendment is attached to the Staff Report as Exhibit A.

**Staff Review:** *The following summary does not constitute recommendations but merely conclusions and suggestions from staff.*

The limitation of the provisions of Section 521.11 to commercial properties and lots 1.5 acres or less has left the Planning and Zoning Department unable to address some resident complaints. Regularly the Planning and Zoning Department will receive high grass and weed complaints regarding properties located in platted subdivisions. However, because these properties exceed 1.5 acres in size, the Planning and Zoning Department does not have the ability to address the residents' concerns. The Planning and Zoning

Department also receives complains concerning apartment complexes that fail to keep grass below eight inches in height. Again, because these properties exceed the 1.5-acre threshold, the Planning and Zoning Department is unable to assist the resident.

It appears the intent of Section 521.11 was to provide a reasonable expectation for certain lots, whereby lack of maintenance, would be problematic for neighboring properties. Conversely, it was also designed so as to not burden a large rural lot with the same expectation. With the proposed revisions, the goal of the Planning and Zoning Department is to keep the same original intent of Section 521.11 while removing the shortfalls of the existing regulations and better address resident concerns.

Removing the requirement that the notice of violation be physically posted on the property does not align with the Planning and Zoning Department's execution of the provisions of Section 521.11. As stated above, the only time the Planning and Zoning Department will have the property mowed is if the property is vacant due to safety concerns. Physically posting a notice on a vacant property does assist with the notification process if there is no one there to see it. If the property is occupied, a mailed notice is sufficient to notify the property owner that an issue exists on the property, particularly in conjunction with the Planning and Zoning Department's three step process of notification of code violations (door hanger, courtesy letter, violation letter). Furthermore, the Planning and Zoning Department is working to make the notification process identical for all code violations as it differs greatly throughout the Code based upon the violation.

The change in the time-period to correct the violation from seven (7) days to 10 days is to allow adequate time for the notice to be delivered by mail to the property owner. As written, notice is served once the letter has been mailed. If the letter is not received by the property owner until a few days later, it reduces the time they available to correct the issue. Additionally, the 10-day time-period is part of the Planning and Zoning Department's effort to standardize the code enforcement process.

The change of notice for property owners whose address is unknown was done to facilitate the notification process and to have the option of not incurring costs associated with publishing the notice in the newspaper. While any costs associated with publishing the notice in a newspaper would be included in the tax lien imposed on the property, it could be years before those costs are recouped. Also, electronic means, such as the City's website or Facebook page, would likely be a better media by which to notify the property owner of the issue.

Following a recommendation from the Planning and Zoning Commission, the amendment will proceed to City Council for consideration.

**Code Amendment Approval:**

According to Section 1217.04 of the Pataskala Code, the Planning and Zoning Commission shall consider approval of a code amendment if the proposal:

1. Will be harmonious with and in accordance with the general objectives, or with any specific objective of the Comprehensive Plan and/or this Code.
2. Will be designed, constructed, operated, and maintained so as to be harmonious in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area.
3. Will not be hazardous or disturbing to existing or future neighboring uses.
4. Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services.
5. Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community.
6. Will not involve uses, activities, processes, materials, equipment and conditions of operations that will be detrimental to any persons, property or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, odor, air or water pollution, or potential for explosion.
7. Will have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding public thoroughfares.
8. Will not result in destruction, loss, or damage of a natural, scenic, or historic feature of major importance.

**Department and Agency Review**

- Zoning Inspector – No Comments
- Public Service Department – No Comments
- City Engineer – No Comments
- Pataskala Utilities – No Comments
- Police Department – No Comments
- West Licking Joint Fire District – No Comments
- Southwest Licking Schools – No Comments
- Licking Heights Schools – No Comments
- Licking County Health Department – No Comments
- SWLCWSD – No Comments

**Modifications:**

Should the Planning and Zoning Commission choose to recommend approval of the amendment, the following modifications may be considered:

- None

**Resolution:**

For your convenience, the following resolution may be considered by the Planning and Zoning Commission when making a motion:

“I move to recommend approval of application number ZON-18-010 pursuant to Section 1217.10 of the Pataskala Code. (“with the following modifications” if modifications are to be placed on the approval).”

## EXHIBIT A

### 521.11 WEEDS AND OTHER NUISANCES

- a) Any person and/or entity owning or having charge of any lot, parcel or land of one and one-half (1.5 ) acres or less and all commercially zoned lots, , lots zoned R-M – Multi-Family Residential, lots zoned R-MH – Manufactured Home Residential, and lots located within a platted subdivision other than ~~designated~~ woodland areas, conservation and/or agricultural easements, CAUV and/or agricultural preservation districts as set forth in the Ohio Revised Code, ~~subdivision reserves designated to remain in a natural state or for agricultural use~~, within the Municipality shall, in the absence of an exemption granted by the City Administrator upon written application and for good cause shown, shall be required to control all weeds, grasses and vegetation, except trees, shrubs, acceptable flowers and farms crops, by cutting or other effective legal means of control as is necessary to keep the growth of such weeds, grasses and vegetation under eight inches high.
- b) The Zoning Inspector is authorized to determine on what lots and lands in the Municipality, weeds, grasses and vegetation are being permitted to grow, spread, mature or seed and declare the same as constituting a nuisance or endangering public health. After determination has been made that such weeds, grasses and vegetation constitute a nuisance or endanger the public health, it shall be the duty of the Zoning Inspector to see that they are removed, or such nuisance abated.
1. A separate offence shall be deemed committed each day during or on which the offense occurs or continues.
  2. Whoever fails to comply with the orders of the Zoning Inspector with respect to these provisions is guilty of a minor misdemeanor.
- c) The Zoning Inspector shall cause written notice to be served upon the owners or lessees or agents or tenants having charge of such lots and lands referred to in subsection (b) hereof, notifying them that weeds, grasses and vegetation growing eight inches or more in height are growing on such lots and lands and that they must be cut or destroyed within ~~seven, (7),~~ 10 days after the service of such notice.
1. ~~Notice shall be posted to the violating property giving seven (7) days to correct the violation.~~ If the address of the owner or person having charge of such lands is known, the Zoning Inspector must ~~also~~ send a copy of the ~~posted~~ notice to said address by regular U.S. mail giving ~~seven (7)~~ 10 days to correct the violation. For purposes of this Ordinance, service of the notice is complete upon such mailing.
  2. If the address of the owner or person having charge of such lands is unknown, the Zoning Inspector must publish notice in a newspaper of general circulation ~~and may also publish the notice or~~ by electronic means. After completion of such notice, the Director of Planning and Zoning shall make due return thereon setting for the cost of service.

- d) Upon the failure of any owner, lessee, agent or tenant having charge of the lots and lands under the provisions of subsections (b) and (c) hereof to comply with the notice within the period of time stipulated under the provisions of subsection (c) hereof, the Zoning Inspector shall cause such weeds to be cut or destroyed by the direct employment of labor or authorize some person to cut the weeds on behalf of the Municipality.
- e) Upon the performance of the labor, under the provisions of subsection (d) hereof, the Zoning Inspector shall report to Council the costs thereof with respect to each lot or parcel of land, including the cost of investigation, handling of weed complaints and cost of service and notification. The total cost to be reported to Council shall be the actual cost incurred for the work performed (per incident) plus an additional administrative cost of either two hundred dollars (\$200.00) or twenty percent (20%) of the actual cost incurred for the work performed rounded up to the next whole dollar, whichever is greater.
- f) Upon receipt of the report, under the provisions of subsection (e) hereof, and approval thereof by Council the Clerk of Council shall make a return in writing to the Auditor of Licking County such charges which shall be entered upon the tax duplicate of Licking County, all in accordance with Ohio R.C. 731.54.
- g) In addition to the procedures set forth above in subsections (d), (e) and (f), whoever violates any provision of this Section or fails to comply with any of its requirements, including violation of conditions and safeguards established in various sections of this Code or fails to comply with any of its requirements shall be guilty of a minor misdemeanor per violation. Each day a violation continues shall be considered a separate offense. The owner or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor, agent or other person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense, and suffer the penalties herein provided. Nothing herein contained shall prevent the City of Pataskala from taking such other lawful action as necessary to prevent or remedy any violation.