

MINUTES OF THE HEALTH & HUMAN SERVICES COMMITTEE
November 13, 2017
Council Conference Room

Present: Councilmembers Marx, Anderson, and Litten

Also present: Councilmembers Anderson, O'Malley, Bullock & O'Leary (6:44 p.m.), Council elect Tristan Rader and Meghan George, Directors Gelsomino and Sylvester, Allison Urbanek and Ian Andrews of Lakewood Alive, Mary Leigh and Michelle Nochta of the Planning Department, Assistant Law Director Swallow, Cuyahoga County Board of Health staff Denise Romano, Tom Barsa, Gerry Scott and Rick Novickis

Call to order: 6:00 p.m.

Ord 31-17 - Repealing Chapter 1793, Tattooing, amending Schedule 1129.02, Permitted Uses in Commercial Districts, and creating new Section 1161.03(XX), Supplemental Regulations for Specific Uses (Body Art Establishments), of the Codified Ordinances of the City of Lakewood in order to permit tattoo studios as a conditional use in commercial districts within the City of Lakewood

Assistant Director Swallow presented the changes to the ordinance recommended by Planning Commission. At the request of Councilmember Anderson, an additional supplemental regulation as added to Section 1161.03 regarding the disposal of infectious waste.

Councilmember Anderson expressed his concern about infectious waste coming into contact with refuse workers or anyone else. He feels that the added provision will address this.

Mr. Scott explained that the existing law allows establishments with less than 50 pounds of hazardous waste to be exempt from the requirement to dispose of waste through a hazardous waste contractor. However, most establishments regardless of the volume of waste do contract out for this service. He noted that Ordinance 31-17 exceeds the current regulations but that it is still workable.

Councilmember O'Malley expressed concern about the provision that restricts establishments from being less than 500 feet from a playground, school, or park. He worried that this would be too limiting for establishments looking for space.

Director Sylvester responded that the City removed the churches from the list which opens up quite a bit more property. He mentioned that the restrictions could be lessened in the future if the market requires it.

Director Sylvester explained the conditional use process, stating that if an establishment fails to comply with the ordinance then the Planning Commission is entitled to revoke its conditional use permit.

Motion by Councilmember Marx, seconded by Anderson to recommend adoption of Ordinance 31-17. All members voted in favor. Motion passed.

ORDINANCE NO. 35-17 – To amend Section 1306.34, Responsibility for Pest Extermination, of the Codified Ordinances of the City of Lakewood in order to clarify responsibility for pest identification and extermination.

Councilmember Marx presented the outstanding questions from last meeting.

Mr. Barsa provided feedback on the proposed ordinance. He noted that among the local municipalities that are taking legislative action on bed bugs that Lakewood is comparable in scope. He pointed out that the ordinance as written does not say who is doing the actual exterminating. He advised that state law requires that a licensed pest exterminator perform this duty in any building with more than four units. He remarked that time is of the essence in treating bedbugs and questioned what the specific timeline is from the time of complaint to inspection and inspection to treatment.

Regarding the timeline Ms. Leigh responded that the ordinance states that the occupant shall notify the landlord of a bed bug, or any pest, promptly. She explained that the Building Department will encourage promptness through best practices and community education. She remarked on the merits of keeping the ordinance flexible.

Ms. Urbanek remarked that it is ideal for a property owner to be made aware of bed bugs within 24 to 48 hours.

Ms. Swallow remarked that use of the term ‘promptly’ would be problematic to enforce by law.

Board of Health staff, Director Gelsomino, and councilmembers remarked on the advantages of adding a specific timeline into the ordinance.

Director Sylvester and Planning Department staff advocated for maintaining less specific language in the ordinance in favor of a more broad approach. Planning Department feels that a broad approach reduces tension between landlords and tenants.

It was clarified that violation of the ordinance would be an unclassified misdemeanor. Either way, enforceability would be questionable. Setting a precise timeframe sends a message about the urgency of the situation.

Motion by Councilmember Marx, seconded by Councilmember to change the language from ‘promptly’ to ‘48-72 hours.’ All members voted in favor. Motion passed.

The Committee discussed the role of Lakewood Alive in managing bed bugs and how and when Lakewood Alive communicates with the Building Department. Lakewood Alive maintains a list of all bedbug related calls and questions but keeps the list private.

The Committee discussed whether or not the ordinance should require that a licensed pest management professional perform extermination duties.

Lakewood Alive remarked that they always recommend the use of a licensed pest management professional to manage bed bugs.

Planning Department staff expressed concern about being overly prescriptive in mandating this. Since the section of the Code pertains to all pests, adding this in could interfere with a landlord setting mouse traps or ant traps.

Ms. Swallow advised that including the requirement of a licensed pest management professional would work best if bed bugs were included in a separate section and not lumped in with other pests.

Councilmembers expressed support for carving out a new section of the Code related to bed bugs. It was noted that heat treatment is not performed by a licensed pest management professional. Councilmembers agreed that this could be added in as a separate acceptable method of bed bug control. Councilmembers also agreed to change the tenant notice requirement to 24-72 hours.

Ms. Urbanek expressed concern about the proposed language which requires that every unit be notified regarding pests. She advocated for a solution that requires adjacent and opposite units to be notified of pests.

The Committee briefly discussed that landlords may add terms to a lease to counteract this ordinance.

A member of the public expressed concern that the proposed ordinance violates Ohio Revised Code by putting the full burden of remediation on the landlord.

The Committee deferred action on the ordinance until it can meet again to address the suggested changes.

Health & Human Services Committee adjourned at 7:00 p.m.