

EXHIBIT B

NEW TOLEDO MUNICIPAL CODE

CHAPTERS 1381,1395 AND 1397

LICENSES, PERMITS AND FEES

1381.05. Board of Appeals.

The Administrative Board of Zoning Appeals as set out in Chapter Section 1112.0200 of the Planning and Zoning Code shall have the power and duty to:

- (a) Hear and decide appeals by the sign permit applicant from a decision of the Administrator denying, or failing to grant a sign permit within thirty days of application;
- (b) Hear and decide appeals of a determination by the Administrator that a sign must be removed for noncompliance with this Code; or
- (c) Hear and decide appeals with petition for variance as set forth in this Code.
- (d) Hear and decide appeals of Notice of Liability violations.

1395.01. Legal non-conforming signs.

(a) **Notification of non-conformity.** After the enactment of this Code, the Administrator shall as soon as practicable survey the City for signs which do not conform to the requirements of this Code. Upon determination that a sign is non-conforming, the Administrator shall use reasonable efforts to so notify either personally or in writing the user or owner of the property on which the sign is located of the following:

- (1) The sign's non-conformity; and
- (2) Whether the sign is eligible for characterization either as legal non-conforming or unlawful. Failing determination of the sign owner, user or owner of the property on which the sign is located, the notice may be affixed in a conspicuous place to the sign or to the business premises with which the sign is associated.

(b) **Signs eligible for characterization as legal non-conforming.** Any sign located within the City limits on the date of adoption of this Code, or located in an area annexed to the City thereafter, which does not conform with the provisions of this Code, is eligible for characterization as a legal non-conforming sign.

(c) **Loss of legal non-conforming status.** A legal non-conforming sign shall immediately lose its legal non-conforming designation if:

- (1) The sign is altered in any way in structure, or copy (except for changeable copy signs and normal maintenance), which tends to or makes the sign less in compliance with the requirements of this Code than it was before the alterations; or
- (2) The sign structure is relocated to a position making it less in compliance with the requirements of this Code; or

(3) Damage to a sign and/or sign structure, due to an act of God or vehicular damage, which requires repairs in excess of thirty percent of value of same; or

(4) A valid sign permit was never obtained prior to installation of said sign; or

(5) The sign and/or the sign structure is no longer maintained in accordance with the requirements of the Sign Code

(6) On the happening of any paragraphs (1), (2), (3), (4) or (5) the sign shall be immediately brought into compliance with the Code with a new permit secured therefor, or shall be removed.

1397.01. Maintenance and repair.

(a) Every sign including but not limited to those signs for which permits are required or for which no permits or permit fees are required, shall be maintained in a safe, presentable and good structural material condition at all times, including the repair or replacement of defective parts, painting, repainting, cleaning and other acts required for the maintenance of such sign.

(b) The Administrator shall require compliance with all standards of this Code. If the sign is not made to comply with adequate safety and maintenance standards, the Administrator shall require its removal in accordance with this chapter.

(c) For purposes of this chapter "sign" shall include any sign structure whether or not it has a sign attached to it.

1397.03. Dangerous or defective signs.

No person shall maintain or permit to be maintained on any premises owned or ~~controlled~~ operated by him any sign which is in a dangerous or defective condition. Any such sign shall be removed or repaired by the owner or operator of the premises and/or the owner of the sign.

1397.06. Prohibitions, notice of liability.

(a) "Owner" means any of the following:

(1) Any person, corporation, partnership, limited partnership, limited liability partnership, or any shareholder, officer, trustee, partner, agent or employee of any of the above who has care, custody, control or charge of a premises or part thereof, has legal title to the premises, or has done any act to maintain or operate the premises.

A. "Maintaining or operating the premises" shall include without limitation, entering into a public utility contract, obtaining a building or demolition permit or obtaining any other permit or license relating to the premises.

(2) Any operator of a premises.

(b) "Operator" means:

(1) Any person who has charge, care of or control of a premises or a part thereof whether with or without the knowledge and consent of the owner.

(2) Any person who alone or jointly or severally with others shall have legal or equitable title to any premises with or without accompanying actual possession therefrom or shall have charge, care or control of premises as owner or agent of the owner, or as executor, executrix, administrator, administratrix, trustee, receiver or guardian of the estate or as a mortgagee in possession.

(3) Any person who as a lessee, or sublessee subletting as reassigning any part or all of any premises shall be deemed to be a co-owner with the lessor and shall have joint responsibility over the portion of the premises sublet or assigned by such lessee.

(4) The vendor or vendee under a land installment contract who has care, custody, control or the right to enter on the premises or real property.

(c) "Premises" means a lot, plot or parcel of land, including the building or structures thereon.

(d) No owner or operator, shall fail to obey any order issued pursuant to Toledo Municipal Code Part Thirteen Title Nine Sign Code.

(e) No owner or operator, shall cause, permit, allow, maintain or fail to abate a violation of the Sign Code.

(f) In addition to any other penalty provided for in the Sign Code, the Administrator, or his or her designee may issue a Notice of Liability to the owner or operator of the premises upon which any sign code exists. Said notice shall describe the location and nature of the ~~public nuisance or~~ Sign Code violation, the time and date it was observed and the fine assessed to the owner.

(1) The Notice of Liability shall be served upon the owner by first class United States mail or by personal service.

(2) It is prima facie evidence that the owner of the premises is the person listed as such in the records of the Lucas County Auditor or Lucas County Recorder.

(3) Any owner charged with a Notice of Liability may appeal said notice as provided by Section 1381.06. The failure to file an appeal shall constitute a waiver of the right to contest and an admission of the Notice of Liability.

(4) A Notice of Liability for the first offense shall be seventy-five dollars (\$75.00). A second violation shall result in a fine of one hundred fifty dollars (\$150.00). A third and any subsequent violation shall result in a fine of three hundred dollars (\$300.00). Payment of a fine under this section may be enforced by means of a civil action or any other means provided by the Ohio Revised Code.

(A) An owner may be found liable under this section regardless of whether the owner has or has not been issued orders pursuant to other provisions of this Sign Code.

(B) Each day a violation of the Sign Code exists shall constitute a separate offense.

1397.07. Disposal of signs; fees.

(a) A sign and/or sign structure may be removed by the Administrator pursuant to the provisions of this chapter and shall become the property of the City and may be disposed of in any manner deemed appropriate by the City. The cost of removal of the sign by the City shall be considered a debt owed to the City by the owner of the sign and the owner of the property, and may be recovered in an appropriate court action by the City or by assessment against the property as hereinafter provided. The cost of removal shall include any and all incidental expenses incurred by the City in connection with the sign's removal.

(b) When the Administrator orders the removal of a sign and/or sign structure, he shall give written notice of the removal order to the owner or operator, together with a brief written statement of the reasons for the order.

(c) When it is determined by the Administrator that such sign and/or sign structure would cause an imminent danger to the public safety, and contact cannot be made with a sign owner or building owner, no written notice shall have to be served. In this emergency situation, the Administrator may correct the danger, all costs being assessed against the property as hereinafter provided.