



TOLEDO-LUCAS COUNTY PLAN COMMISSIONS

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THOMAS C. GIBBONS, DIRECTOR



DATE: September 15, 2017

REF: M-15-16

TO: President Steven Steel and Members of Council, City of Toledo

FROM: Toledo City Plan Commission, Thomas C. Gibbons, Secretary

SUBJECT: Text Amendment to TMC 1389.06 Animated Changing Signs

The Toledo City Plan Commission considered the above-referenced request at its meeting on Thursday, September 14, 2017 at 2:00 P.M.

GENERAL INFORMATION

Subject

Request	-	Text Amendment to TMC 1389.06 Animated Changing Signs
Applicant	-	Toledo City Council

STAFF ANALYSIS

The request is a Text Amendment regarding TMC 1389.06 Animated Changing Signs. This section contains the current regulations for Electronic Message Centers (EMCs). EMCs are a type of sign that can change their content digitally and makes it easier to convey multiple pieces of information. The current interpretation of City regulations allow an EMC on any sign type, but only in two zoning districts: Regional Commercial areas with a Shopping Center overlay (CR-SO) and Downtown Commercial (CD) areas.

This referral was initiated due to the amount of waiver requests received by the Board of Zoning Appeals (BZA) and the lack of guidelines in the sign code for EMCs. The BZA requested that the Plan Commission and City Council study the issue further and provide additional guidance. Toledo City Council made an official request via Resolution 259-16, which included draft language for consideration. Planning staff reviewed the proposed legislation and conducted research on other communities and analyzed the impact of various policies in Toledo. Meetings were held with the sign industry and other stakeholders to better understand issues and concerns with this signage type. A forum was also held with local business members of the Toledo Chamber of Commerce to discuss the proposed legislation.

STAFF ANALYSIS (cont'd)

RESEARCH

Staff researched three different categories of communities: a) six (6) large cities in Ohio, b) seven (7) smaller, nearby suburban communities and c) seven (7) cities that are similar in population. These categories provide a qualitative look at various policies regarding EMCs and signage from different perspectives and populations.

A complete summary of research is included in Exhibit "A", but some of the findings are presented in this report. It should be noted that regulations were generalized in order to assist with analysis and are in no way illustrative of the complexity contained in some sign codes. For example, maximum sign height can be calculated based on a number of factors: the zoning district, the speed limit, the road width, the setback of the sign from the property line or a combination of any of these items. Additionally, a dash in the table means that staff was unable to find specific regulations in that community.

A summary of key findings include:

- **Sign Height:** The average maximum height for a freestanding sign in a commercial area is between 10 to 30 feet. By contrast, Toledo allows a maximum height of 45 feet in the busiest commercial areas.
- **Sign Area:** 14 of 20 communities had restrictions on the amount of sign area allowed for an EMC. The most common restriction was that an EMC cannot exceed 50% of the total allowable sign area
- **Hold Time:** The average length that a message could be displayed was between 6 to 10 seconds. 9 of the 20 communities had this regulation. Only 1 of the 9 communities had a hold time less than 6 seconds.
- **Use in Residential:** 10 of 20 communities prohibited EMC signage in residential 9 of 20 communities allowed EMCs in residential, but only for public or semi-public uses. 1 of 20 communities, Cleveland, required a variance from the Board of Zoning Appeals for public and semi-public uses.
- **Use in Commercial/Industrial:** 6 of 20 communities restricted EMC signage in commercial or industrial areas to more automotive oriented areas. 11 of 20 communities allowed this signage in all commercial or industrial areas. 1 of 20 communities, Cleveland, required a variance from the Board of Zoning Appeals for the use of any EMC sign. 2 of 20 communities only allowed this type of signage for arenas, public assembly, or cultural uses.

STAFF ANALYSIS (cont'd)

RESEARCH (cont'd)

- Transitions, Scrolling, Animation: 15 of the communities prohibited animation, 10 communities prohibited scrolling and 3 communities prohibited transition effects (including Cincinnati and Cleveland). The typical transition time for a message was under 3 seconds.
- Pole Signs: Of all the communities surveyed only 5 local communities prohibited pole signs in some way. Maumee and Sylvania prohibit pole signs outright. Springfield Twp. restricts pole signs to a single district (General Commercial). Oregon requires that any freestanding sign have a base that is at least 50% of the overall sign width and Perrysburg prohibits a single pole sign over 42 inches.

PROPOSAL

While a full revision of the sign code is necessary to modernize a document that has been largely unchanged since 1952, steps can be taken with EMC legislation to minimize potential impacts while also improving signage aesthetics in Toledo. A summary of the proposal follows, with full language included as Exhibit "B" of this report.

One of the most noticeable findings from the research and analysis is that Toledo has height and area requirements that exceed nearly all of the communities surveyed. A significant step towards improving signage aesthetics is to reduce the overall size of the signs. To that end this legislation recommends that any sign with an EMC reduce both the size and height of the sign. This proposal limits an EMC to a solid-base, freestanding sign or a wall sign where allowed by zoning. Signs without an EMC component and billboards would not be affected by this legislation.

The current recommendation is that a sign with an EMC in the CR, CR-SO, IC, IL and IG districts be limited to 60% of the allowable square footage and a maximum height of 10 feet. This means that a sign that would be allowed 250 sq. ft. of sign area would be limited to 150 sq. ft. of sign area if an EMC was installed. The 150 sq. ft. is the maximum size for both EMC and non-EMC copy, but signage can be in any configuration. In residential districts, the existing sign regulations are not based on roadway width or speed so the proposal is slightly different. A bulletin board type sign with an EMC installed is allowed the maximum height of 6 feet, however the EMC portion of the sign cannot exceed 50% of allowable square footage or 16 sq. ft.

STAFF ANALYSIS (cont'd)

PROPOSAL (cont'd)

The permitted location for an EMC is based on the zoning district, location on a major street and, in residential districts, the amount of total building square footage on the property. For certain commercial, industrial and institutional districts an EMC is permitted provided the property is located on a major street. In residential districts an EMC is permitted provided the property is located on a major street and the amount of total building square footage exceeds 5,000 sq. ft. The square footage was included for residential districts as a way to limit this type of signage to larger non-residential uses only. Staff reviewed the location of known public and semi public uses and determined that close to 70% are located on a major street. The results are included in Exhibit "C" of this report. Analysis of the impact regarding building size was not completed.

In addition to these requirements, an EMC is not permitted in any Historic District overlay, the Downtown Overlay District, or the Maumee River Overlay. It is allowed in any other overlay district, but must receive approval from the respective architectural review committee or neighborhood group prior to applying for necessary building permits.

The local trend towards monument signage is seen as a way to improve the visual appearance of signage in a community. A monument and a pole sign are typically both classified as a freestanding sign, which means the sign is secured or anchored to the ground independent of any building. The difference is that a monument sign encloses the entire width of a sign from the base to the top of sign, whereas a pole sign leaves the base of the sign exposed, including pole supports. A monument sign can be secured to the ground with a pole, the difference is that the pole is not visible. Staff recommends prohibiting the use of pole signs when EMCs are installed and requiring a monument style sign.

Additional regulations are included which will minimize the impacts of this type of signage and include message display, message hold time, animation/motion, brightness and hours of operation within 100 feet of residential. These regulations are consistent with the communities surveyed. The proposal also clarifies existing definitions within the sign code to better address how Electronic Message Centers are classified. The change affects the "Changing Sign, Automatic" and "Animated Changing Signs, Automatic" definitions. Staff discovered the potential inconsistency while researching the text amendment for "Animated Changing Sign" approved in 1990.

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PLAN COMMISSION RECOMMENDATION

The Toledo City Plan Commission recommends approval of M-15-16, a Text Amendment to TMC 1389.06 Animated Changing Signs, as outlined in Exhibit "B", to Toledo City Council.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Thomas C. Gibbons".

Thomas C. Gibbons
Secretary

JL
Exhibits "A", "B", "C" follow

Cc: Lisa Cottrell, Administrator
Josh Lewandowski, Principal Planner

Comparative Analysis of EMC Regulations - Large Ohio Cities

Zoning Regulations For:	Akron	Cincinnati	Cleveland	Columbus	Dayton	Toledo	Youngstown
Freestanding Signage						(Existing)	
Copy Area							
Residential	30SF	20SF	40SF	24-64SF	25SF	32SF	120SF
Commercial	1-3SF/B.W. ¹	36-72SF	50SF	SQ.RT.*B.E. ²	25-50SF	40-250SF	120SF
Industrial	1-3SF/B.W. ¹	72SF	50SF	SQ.RT.*B.E. ²	35SF	40-250SF	120SF
Height							
Residential	10'	6'	5'	6-12'	5'	6'	30'
Commercial	10-30'	6-15'	10-25'	20-35'	6-20'	10'	30'
Industrial	10-30'	30'	25'	20-35'	8'	10'	30'
Max Width	-	10'	-	-	-	-	-
Allowable Districts for EMCs						(Proposed)	
Residential							
Prohibited	X	-	-	X	X	-	-
Allowed for public/semi-public	-	X	X ³	-	-	X ⁴	X
Commercial							
Prohibited	-	-	-	-	-	-	-
Permitted							
Permitted in All Districts	-	-	X ⁵	-	X	-	X
Permitted in Auto Oriented Comm. / Industrial	X	X	-	X	-	X ⁶	-
Public Assembly / Stadiums / Cultural Only	-	-	-	-	-	-	-
EMC Specific Signage							
Size Restrictions	50%	-	30SF ⁷	50%	30%	16SF/60% ⁸	-
Height Restrictions	-	-	-	-	-	6'/10' ⁹	-
Neighborhood Compatible Design	-	-	X	-	X	X	-
Provision Near Residential	-	-	-	-	-	X	-
Pole Signs Prohibited	-	-	-	-	-	-	-
One Per Site	-	X	X	-	-	X	-
Malfunction mechanism	-	-	-	X	X	X	X
Brightness restriction	-	-	-	X	-	X	X
Hold Time	-	-	20 Secs.	8 Secs.	8 Secs.	8 Secs.	10 Secs.
Prohibitions							
Transitions	-	X	-	X	3 Secs.	X	1 Secs.
Scrolling	-	-	X	X	X	X	-
Animation	X	X	X	X	-	X	-

1 Square footage for every foot of building width. 2 Square footage based on a ratio of the square root of total building elevation. 3 Variance required for public/semi-public uses. 4 Must be located on a major street with over 5,000 sq. ft. of building area. 5 Variance required for pedestrian oriented districts. 6 Must be located on a major street. 7 Restriction only for residential districts. 8 16SF maximum in residential districts and 60% maximum of allowable sign area in commercial/industrial districts. 9 6' maximum height in residential districts and 10' maximum height in commercial/industrial districts.

Prepared by the Toledo Lucas County Plan Commissions.

Comparative Analysis of EMC Regulations - Local Communities

ZONING REGULATIONS FOR:	Maumee	Oregon	Perrysburg	Perrysburg Twp.	Springfield Twp.	Sylvania	Sylvania Twp.	Toledo
Freestanding Signage								(Existing)
Copy Area								
Residential	32SF+2/1 S.B. ¹	32SF	32SF	32SF	32SF	50SF	50SF	32SF
Commercial	32SF+2/1 S.B. ¹	60-100SF	24-72SF	25-50SF	32-48SF	70SF	50-100SF	40-250SF
Industrial	32SF+2/1 S.B. ¹	300SF	48-72SF	50SF	32-48SF	100SF	50-100SF	40-250SF
Height								
Residential	10'	6'	6'	6'	5'	8'	5'	6'
Commercial	10'	15'	6-20'	6-15'	10-20'	10'	5-30'	20-45'
Industrial	10'	15'	10-25'	6-15'	10'	10'	5-30'	20-45'
Max Width	-	-	-	-	-	10'	-	-
Allowable Districts for EMCs								(Proposed)
Residential								
Prohibited	X	-	-	-	-	-	-	-
Allowed for Public/Semi-Public	-	X	X	X	X	X	X	X ²
Commercial								
Prohibited	-	-	-	-	-	-	-	-
Permitted	-	-	-	-	-	-	-	-
Permitted in All Districts	X	X	X	X	X	X	X	-
Permitted in Auto Oriented Comm./Industrial	-	-	-	-	-	-	-	X ³
Public Assembly/ Stadiums/ Cultural Only	-	-	-	-	-	-	-	-
EMC Specific Signage								
Size Restrictions	50%/25SF Max	60%	-	-	50%	-	50%	16SF/60% ⁴
Height Restrictions	-	-	-	-	-	-	-	6'/10' ⁵
Neighborhood Compatible Design	-	X	X	-	-	-	-	X
Provision Near Residential	X	-	-	-	-	-	-	X
Pole Signs Prohibited	X	X ⁶	X ⁷	-	C-2 Only ⁸	X	-	-
One Per Site	X	-	-	-	X	-	X	X
Malfunction mechanism	X	-	-	-	-	-	X	X
Brightness restriction	X	-	-	-	-	-	X	X
Hold Time	6 Secs.	10 Secs.	7 Secs.	-	8 Secs.	3 Secs.	20 Secs.	8 Secs.
Prohibitions								
Transitions	2 Secs.	10 Secs.	-	-	3 Secs.	-	3 Secs.	X
Scrolling	X	X	-	-	X	-	-	X
Animation	X	X	X	-	-	X	X	X

1 32SF + 2 additional sq. ft. for every 1 foot setback from property line up to a maximum of 200 sq. ft. 2 Must be located on a major street with over 5,000 sq. ft. of building area. 3 Must be located on a major street. 4 16SF maximum in residential districts and 60% maximum of allowable sign area in commercial/industrial districts. 5 6' maximum height in residential districts and 10' maximum height in commercial/industrial districts. 6 The base of a pole sign must be at least 50% of the width of the entire sign. 7 Pole signs over 42 inches must be enclosed with a solid base. 8 Allowed only in the C-2 General Commercial zoning district.

Prepared by the Toledo Lucas County Plan Commissions.

Comparative Analysis of EMCs Regulations - Similar Size Cities

Zoning Regulations For:	Fort Wayne	Lexington	Orlando	Pittsburg	Plano	St. Louis	St. Paul	Toledo (Existing)
Freestanding Signage								
Copy Area	50SF	32SF	16-32SF	30SF	32SF	30SF	30SF	32SF
Residential	80-300SF	50SF	1-2SF/B.W. ¹	50SF	60-90SF	100SF	1.5SF/LF or 75SF ²	40-250SF
Commercial	80-300SF	75SF	2SF/B.W. ¹	200SF	60-90SF	125SF	1-3SF/LF or 75SF ²	40-250SF
Industrial								
Height								
Residential	8'	8'	6'	30SF ³	10'	6'	30'	6'
Commercial	8-30'	10-25'	6-30'	40'	10-20'	30'	37.5'	20-45'
Industrial	8-30'	25'	30'	45'	10-20'	50'	37.5'	20-45'
Max Width	-	-	-	-	-	-	-	-
Allowable Districts for EMCs								
Residential								(Proposed)
Prohibited	-	X	X	X	-	X	-	-
Allowed for Public/Semi-Public	X	-	-	-	X	-	X	X ⁴
Commercial								
Prohibited	-	-	-	-	-	X	-	-
Permitted								
Permitted in All Districts	X	-	-	-	X	-	-	-
Permitted in Auto Oriented Comm./Industrial	-	-	-	X ⁵	-	X ⁶	X	X ⁷
Public Assembly/Stadiums/Cultural Only	-	X	X	-	-	-	-	-
EMC Specific Signage								
Size Restrictions	40SF Max	50%	35%	50%/50SF Max	-	10SF	20%/200SF Max	16SF/60% ⁸
Height Restrictions	-	-	-	-	-	-	-	6'/10' ⁹
Neighborhood Compatible Design	-	-	-	-	-	-	-	X
Provision Near Residential	-	-	-	X 100'	-	X 500'	X	X
Pole Signs Prohibited	-	-	-	-	-	-	-	-
One Per Site	-	-	-	-	-	X	-	X
Malfunction mechanism	X	-	-	X	-	-	X	X
Brightness restriction	X	-	-	X	X	-	X	X
Hold Time	6 Secs.	15 Secs.	1 Hour	30 Secs.	8 Secs.	5 Mins.	12 Secs./20 Mins. ¹⁰	8 Secs.
Prohibitions								
Transitions	.25 Secs.	-	-	.25 Secs	X	-	-	X
Scrolling	10 Secs.	-	X	X	X	X	1 WPS ¹¹	X
Animation	X	X	-	X	X	X	X ¹²	X

1 Sq. ft. for every foot of building width. 2 1.5SF for every linear foot of frontage or 75 sq. ft., whichever is greater. 3 Height not specified, limited to a configuration of 30 sq. ft. 4 Must be located on a major street with over 5,000 sq. ft. of building area.
 5 Permitted in Highway Commercial, Urban Industrial or Unrestricted Areas with a Special Exception granted by BZA. 6 Allowed only in Industrial or Unrestricted zoning districts. 7 Must be located on a major street. 8 16SF maximum in residential districts and 60% maximum of allowable sign area in commercial/industrial districts. 9 6' maximum height in residential districts and 10' maximum height in commercial/industrial districts. 10 Minimum hold time in residential or most commercial districts is 20 minutes. 11 1 five letter word per second. 12 Animation is only permitted for sports facilities.

Prepared by the Toledo Lucas County Plan Commissions.

Exhibit "B"

(Additions in bold italics. Deletions in strikethrough.)

PLEASE NOTE: The proposed language does not impact billboards (off-premise signage) or signage without an EMC component installed.

[1] MODIFY TMC 1379 Definitions

1379.01 Definitions

(24) "Changing sign (automatic)" means any sign such as an electronically or electrically controlled public service time, temperature and date sign, message center or readerboard where different copy and graphic changes are shown on the same lamp or disc bank. "Changing sign (automatic)" ~~could~~ **may not** include signs with the appearance of motion by means of scrolling, fading in and out, blinking or other change in copy or graphics that appear or disappear or change location on the sign. ***Electronic Message Centers are subject to the standards of TMC 1389.06.***

(110) "Window sign" means a sign installed inside a window for purposes of viewing from outside the premises. This term shall not include merchandise located in window. ***Signage that qualifies as an Electronic Message Center is prohibited.***

[2] ADD & RENUMBER TMC 1379 Definitions

[33] "Electronic Message Centers" See "Changing sign (automatic)"

[3] MODIFY TMC 1387 Signs Permitted in Zoning Districts

1387.01. Scope.

(a) This chapter describes signs permitted in the various zoning districts of the City. A permit must be obtained, as described in Chapter 1383, for these signs. Additional permitted signs as described in Chapter 1391 are exempt from permit requirements. Any of the types of signs permitted in this Code may be permitted as manual ~~or automatic~~ changeable copy signs.

[4] REPEAL & REPLACE TMC 1389.06 Animated Changing Signs (Automatic)

1389.06 Electronic Message Centers (EMCs)

The regulations contained in this section shall apply to On-Premise EMCs. All EMC signage must obtain appropriate permits from the Division of Building Inspection. Signage shall be installed and maintained in accordance with all applicable regulations. Off-Premise EMCs (Billboards) are subject to the standards contained in TMC 1387.05.K. for Off-Premise Signage.

Exhibit "B"

(Additions in bold italics. Deletions in strikethrough.)

PLEASE NOTE: The proposed language does not impact billboards (off-premise signage) or signage without an EMC component installed.

- (a) *An EMC is allowed on any parcel with CR, CR-SO, IL, IG, or IC zoning provided the parcel is located on a major street. An EMC is allowed on any parcel with RS12, RS9, RS6, RD6, RM12, RM24, or RM36 zoning provided: the parcel is located on a major street and the structure(s) exceeds 5,000 square feet of floor area.*
 - (1) *Regardless of the underlying zoning district, an EMC shall not be installed in any Historic Overlay District (-HO), the Downtown Overlay District (-DOD), or the Maumee River Overlay (-MRO).*
 - (2) *An EMC shall not be installed in any other overlay district without review and approval by the respective architectural review committee or neighborhood group.*
- (b) *Only one (1) EMC shall be permitted per premise.*
- (c) *An EMC is only allowed as part of a solid base freestanding sign or as a fascia sign.*
 - (1) *Solid Base Freestanding Sign. For purposes of this section, a solid base freestanding sign means that the entire sign is enclosed from the ground to the top of the sign with no exposed poles. The base of the sign must be equal to or greater than the width of the sign face.*
 - A. *In any residential district, an EMC shall not exceed the maximum allowable height or 50% of allowable sign area of TMC 1387.02 up to a maximum of 16SF. Sign area restriction is for EMC copy only.*
 - B. *In the CR, IL, IG, and IC districts the maximum height is limited to ten (10) feet and 60% of the allowable sign area of TMC 1107.05 Table 1. Sign area restriction is for EMC and non-EMC copy.*
 - (2) *Fascia Sign: An EMC may be incorporated into a fascia sign, where allowed by the underlying zoning district, provided it does not exceed 40% of the allowable sign area. An EMC fascia sign cannot be used on a premise with multiple tenants. Sign area restriction is for EMC copy only.*
- (d) *Displayed messages may change no more than one time every eight (8) seconds.*

Exhibit "B"

(Additions in bold italics. Deletions in strikethrough.)

PLEASE NOTE: The proposed language does not impact billboards (off-premise signage) or signage without an EMC component installed.

- (e) *Movement including animation, flashing and scrolling is prohibited at all times. Only static text or images are permitted.*
- (f) *Any sign that uses an EMC element shall incorporate design elements for the entire sign. The EMC portion of the sign and any exposed poles must be enclosed on all sides using high quality materials as defined in TMC 1109.0501. The design must be compatible with the existing development in the area. Design elements will not count towards the total sign area, but cannot exceed maximum height limits.*
 - (1) *Design elements size shall be reviewed and approved in consultation with Plan Commission staff.*
 - (2) *The use of an identification panel with the address is required for any solid base freestanding sign, unless the sign would be located on a parcel with multiple frontages and on a frontage that does not correspond to the building address.*
- (g) *EMC's shall be designed and operated with automatic dimming features that adjust illumination from daylight to night time maximums and provide the owner/operator of the EMC the ability to reduce the illumination and/or brightness to adjust to background and ambient light conditions. These controls may include an auxiliary photocell on or near the sign.*
- (h) *The eye illuminance limit shall effectively be 0.0 foot-candles (fc); which means that the increase above ambient levels of lighting caused by switching on the sign shall not exceed 0.3 fc measured at one-hundred (100) feet from the sign standing as near as perpendicular to the sign as possible, or at the edge of the pavement no more than one-hundred (100) feet from the sign using a foot-candle meter held five (5) feet above grade.*
 - (1) *Brightness shall be verified with two measurements. The first is taken at least 30 minutes past sunset and records the ambient light while the sign is off or displaying all black copy, or with the sign's illumination blocked. The second reading is taken while the sign is on and not blocked. Measurements shall be taken at the same location, with the meter aimed toward the center of the sign.*
 - (2) *If the difference between the measurements is equal to or less than 0.3 fcs, the brightness is properly adjusted; otherwise the sign must comply with the bright standards set forth above.*

Exhibit "B"

(Additions in bold italics. Deletions in strikethrough.)

PLEASE NOTE: The proposed language does not impact billboards (off-premise signage) or signage without an EMC component installed.

- (i) *EMC's located within one hundred (100) feet of a residentially zoned district or use must be turned off when the use is closed or between the hours of 10:00 pm and 6:00am, whichever is earlier.*
- (j) *Red, yellow or green lights may be used, unless in the opinion of the Director of Public Safety, such colors would create a driving hazard.*
- (k) *Illumination shall be so arranged as to reflect light away from residential premises and in such a manner so as not to cast glare.*
- (l) *Any EMC that was legally established at the time of adoption of these regulations shall comply with items (e), (g), (h), and (i) within six (6) months of the date of passage.*

[5] MODIFY TMC 1391 Exempt Signs

1391.02 Exempt signs

(r) Permanent Window Signs. For each ground floor occupancy of a building not more than two permanent signs may be painted on or otherwise displayed from the inside surface of any window, showcase or other similar facility. Such signs shall be in addition to those signs permitted under the other provisions of this code. The total copy area of such signs, however, shall not exceed a maximum of twenty-five percent of the total window area, or one square foot per lineal front foot of the premises occupied, whichever is the lesser. ***Signage that qualifies as an Electronic Message Center is prohibited.***
(Ord. 871-01. Passed 10-30-01.)

(s) Signs in the Display Window. Signs in the display window of a business, which are incorporated with a display of merchandise or a display relating to services offered which comply with subsection (q) hereof. ***Signage that qualifies as an Electronic Message Center is prohibited.***
(Ord. 871-01. Passed 10-30-01.)

[6] ADD SECTION TMC 1393 Prohibited Signs

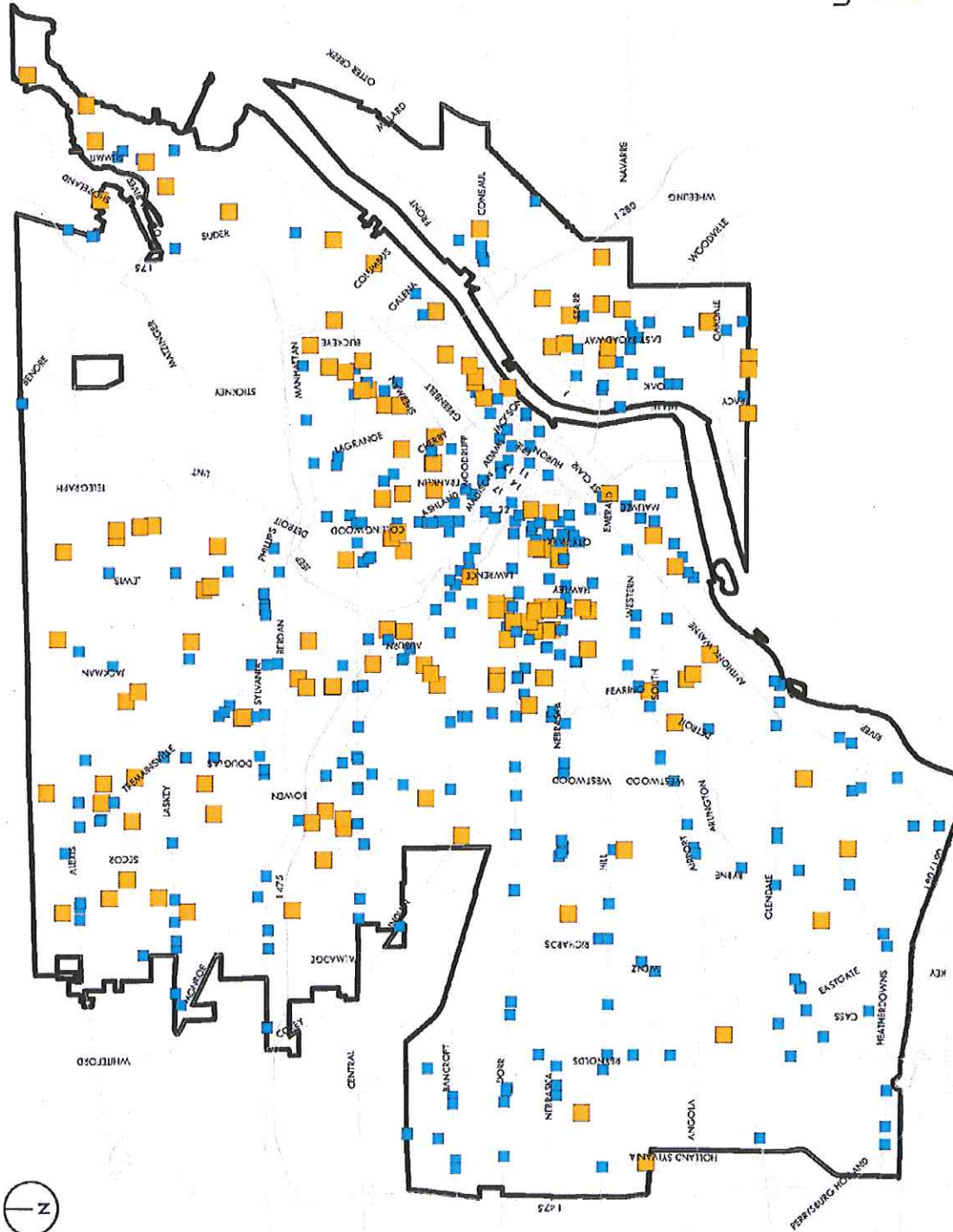
1393.16 Animated Signs

Animated Signs and Animated Changing Signs (Automatic) are prohibited.

EXHIBIT "C"

M-15-16

Major Street Map Schools, Churches, & Libraries*



Produced by the Toledo Lucas Court Plan Commission. *Use data from 2011 Spacing Database and internal records. Streets shown are considered major streets per the Major Street and Highway Plan. Records reflect instances of a known use but are subject to verification. Classification on a major street is an estimate based on uses within 500' of the centerline. Uses were spot checked, but additional research is required.



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Council Member Tyrone Riley
Zoning & Planning Council Committee
One Government Center
Suite 2120
Toledo, OH 43604

May 17, 2017

Chairman Riley,

I am writing to share the perspective of the International Sign Association (ISA) on the proposed changes to Toledo's electronic sign regulations. ISA is the umbrella organization that provides expertise and assistance to our affiliated associations like the Midwest Sign Association (and local groups like the Toledo Area Sign Contractors Association). ISA works with communities and stakeholder organizations across the country educating public officials and helping to develop well-written sign ordinances.

Since I am unable to attend today's public hearing in person, I would like to submit my organization's comments in writing. In the following paragraphs, I will briefly discuss seven concerns that ISA has with proposed Ordinance 203-17 (as posted on the City Clerk website on May 5):

Process—Though a few sign contractors were contacted and met with city officials, many others were shut out of the process altogether. I know that ISA did not have numerous phone calls returned and other contacts were ignored. I believe that other sign companies that conduct business in Toledo (but are not headquartered locally) were similarly excluded. While it is the prerogative of City officials to limit stakeholder engagement in any manner, I would suggest that the Council sponsors did not attempt to work with knowledgeable representatives from the business community at a level that would have ensured a well-written ordinance. By working more closely with sign contractors and business owners, we believe that the City can resolve many of the issues that remain in dispute.

Conformance Within 6 Months—Section 1389.06(l) reads:

"Any EMC that was legally established and permitted at the time of adoption of these regulations shall comply with items (e), (g), (h), and (i) within six (6) months of the date of passage. All EMC's not properly permitted by the City of Toledo must be properly permitted within 6 months of the passage of this ordinance."

ISA is concerned about the City's attempt to require legally permitted signs to comply with new regulations within 6 months. (Signs that were installed illegally and without permits should be declared nuisances and removed, using existing authority under §1397, §1115.0204 and §1115.0505). As I



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Provisions Limiting EMC's to 50 ft², 50% of Area and 10' Height—Sign ordinances are written to establish regulations for businesses and other common uses of private property. But the rules passed into law also apply to other, less-typical property uses that might want to erect signs for other reasons.

St John's Jesuit High School has a football scoreboard that exceeds the 50 ft² and 10' height limits.



City Council may not be considering a high school athletics field when it drafts regulations for businesses, but they will apply. (Often, enforcement officials turn a blind eye to public schools because they are a government agency exempt to permitting requirements under §1391.02(d).) But St John's is a private Jesuit school with a football scoreboard that can be viewed at the property line (by vehicular traffic on Airport Highway).

Provisions Limiting EMCs to "Solid Base" Freestanding Signs—While the University of Toledo doesn't need to pull permits from the City of Toledo, this small sign (located at the corner of North Towerview and East Centennial) would be illegal because its base is not "solid", but instead mounted on two poles.





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understand Ohio law, *Pschesang v. Terrace Park (1983)* and *N. Ohio Sign Contractors Assn v. City of Lakewood (1987)* protect the rights of a landowner to continue a nonconforming use. Ohio Revised Code §713.15 establishes a timeline of 2 years discontinuation of the nonconforming use to bring about the end of the nonconformity (though §713.15 allows for a municipality to shorten the 2 years to 6 months). Either way, unless the nonconforming EMCs are voluntarily removed/discontinued for 6 months, the only way to remove them legally under Ohio law is to declare them as a nuisance (*N. Ohio Sign Contractors Assn v. City of Lakewood (1987)*). The City of Toledo might be able to make a case that noncompliance with provisions (g), (h), (i), and the “flashing” language of (e) could be classified as a nuisance. But Toledo would find it almost impossible to make a sufficient argument that the provision (e) prohibitions on animation and scrolling address a nuisance that requires cessation. Scrolling message centers have operated for decades in thousands of communities without objection, some going as far back as the New York Times “news zipper” (<http://www.wnyc.org/story/ticker-times-square/>) that was installed in 1928.

Limited Impact of Ordinance Without Enforcement—When a new ordinance is enacted in Toledo, whether it is permissive or restrictive or a prohibition, the real challenge will arise when the City attempts to enforce those regulations. As I understand the current state of affairs, Toledo has a large number of signs that either were installed without proper permitting or now operate in a manner other than as originally approved. The sign ordinance needs proper enforcement. It is ISA’s position that:

ISA believes that proper code enforcement is as essential to protecting the public interest as well-written sign ordinances and a straightforward permit approval process.

ISA believes that municipalities need to enforce their existing zoning, building, and electrical codes and regulations. ISA also believes that local governments should allocate adequate staff resources to support an enforcement program.

All too often, community members observe clutter of improperly positioned temporary signs, the blight of abandoned signs, and the nuisance of unmaintained electrical signs without questioning the missing enforcement that allowed problematic signs to remain. By devoting adequate resources to enforcement, ISA believes that communities can maximize the public benefit achieved under existing sign regulations instead of enacting additional rules that could further burden business owners and sign contractors.

EMC Lighting Provisions- The lighting provisions ((g), (h), (i), and (k)) are appropriate regulations. However, we believe that Council has a meaningful typographical error in (h). ISA believes that the ordinance should read “The eye Illuminance limit shall be 0.3 foot-candles”. The current text (“0.0 foot-candles”) is equivalent to total darkness.



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Inability to Use Variances/Exceptions To Bypass Restrictions—When a city ordinance directly prohibits a sign permit approval, the suggested remedy is for an applicant to apply for a variance or exception. But our reading of Chapter 1111 (Development Approval Procedures) of Toledo Municipal Code suggests that neither §1111.1700 (Variances) nor §1111.1800 (Exceptions) would allow for the types of EMCs that would be prohibited under proposed Ordinance 203-17.

Section §1111.1800 (Exceptions) only addresses four situations (extension of a district, reconstruction of a destroyed nonconforming structure, locations where actual street layout differs from zoning map, enclosure of porches), none of which are relevant to applications for new message centers. Section §1111.1700 & 1111.1705 (Variances) requires that the applicant demonstrate an unnecessary hardship or practical difficulties not caused by the applicant. Returning to an earlier example, St John's Jesuit would be unable to meet this standard for relief from the height and size limits, because their architect chose to position their scoreboard at the southern end of the stadium (visible from Airport Highway at a distance of 1000ft) instead of the northern end (not visible from the property line).

Similarly, businesses located with interstate frontage and visibility could not receive variances. For example, the Pilot Travel Center on Alexis Road has two large EMCs (one high-rise facing Interstate 75, one pole sign facing Alexis Road) displaying the price of diesel fuel. As written, the City's variance standards would deny both EMCs for relief from the height or size limits or the requirement that all EMCs be mounted on a solid base. In the case of Pilot, the large investment in their existing EMCs and the invisibility of their travel center from I-75 without their high-rise sign suggests that their sign has an essential role in the success of their business attracting passing motorists and truck drivers.

Thank you for your time and consideration to the ISA recommendations to the proposed regulations. ISA would be happy to offer any additional assistance in understanding issues involved in the regulation of on-premise electronic message centers.

Sincerely,
Kenneth Peskin
Director of Industry Programs

Memo

Date: September 12, 2017

To: Members of Toledo City Plan Commission and Staff

From: Steve Serchuk, Former Plan Commission Member and Current BZA Vice Chairman



Re: Suggested Changes and Additions to the

Text Amendment to TMC 1389.06 Animated Changing Signs

On Exhibit B – The following deletions/insertions:

- Modify (a) EMC's should be permitted in only CR (regional commercial), CR-SO (planning shopping centers-regional commercial), and IC (institutional campus) districts. Not in industrial or residentially zoned districts.
(If churches, schools, libraries, fraternal organizations located in any other zoning district, let them make their case at the Board of Zoning Appeals.)
- Add to (b) If a business/organization obtains an EMC sign – it shall only be entitled to one other facia sign on the premises – regardless of the number of signs it would have been permitted without the EMC sign. (Since EMC signs have changeable copy they really function as multiple signs and messages for all tenants/occupants of the premises.)
- Add to (i) Consider limiting the time (hours of operation) that all EMCs can be “on” regardless of proximity to residentially zoned land.
- Add to (j) No white or mostly white background or white panels shall be permitted on any EMC sign display. (The white background is glaring and blinding to both traffic and residents.)
- Add to (m) EMCs at commercial/business establishments shall only display activities that occur on that premises, and not advertise or promote off site businesses, products or services.

Our community currently has massive sign blight. Our City has done a poor job of enforcing the existing sign code in getting the illegal and abandoned signs removed.

I urge you to try to limit the broad expansion of these EMC signs, and the time they are permitted to be in use.

Help reduce sign blight in Toledo!