

REF: M-11-24
DATE: August 8, 2024

GENERAL INFORMATION

Subject

Request	-	Text amendment amending TMC Chapter 1115 Violations, Penalties & Enforcement.
Applicant	-	Toledo City Plan Commission One Government Center, Suite 1620 Toledo, OH 43604

STAFF ANALYSIS

The request is a text amendment to modify Toledo Municipal Code (TMC) Chapter 1115 – *Violations, Penalties, and Enforcement*. Chapter 1115 was changed last year to allow the Toledo Lucas County Plan Commissions direct enforcement of zoning and compliance issues. There were a few sections that were not correctly updated in Chapter 1115 to reflect this change. This minor amendment addresses those areas.

STAFF RECOMMENDATION

The staff recommends that the Toledo City Plan Commission recommend approval of the text amendment amending TMC Chapter 1115 - *Violations, Penalties & Enforcement* for the following reason:

1. The proposed text amendment is consistent with the Comprehensive Plan and the stated purpose of this Zoning Code (TMC 1111.0506(B) Review and Decision-Making Criteria).

ZONING TEXT AMENDMENT
TOLEDO CITY PLAN COMMISSION
REF: M-12-21
DATE: August 8, 2024
TIME: 2:00 P.M.

ZONING AND PLANNING COMMITTEE OF
CITY COUNCIL
DATE: September 10, 2024
TIME: 4:00 P.M.

JL
Exhibit “A”

Exhibit “A”

(Additions in italic highlight. Deletions in strikethrough.)

CHAPTER 1115 VIOLATIONS, PENALTIES AND ENFORCEMENT

1115.0100 Responsibility for Enforcement

1115.0101 It is the duty of the Commissioner of Building Inspection and Code Compliance, and the Planning Director, *or their designees*, to enforce this Zoning Code.

1115.0800 Enforcement Procedures

1115.0801 Non-Emergency Matters

In the case of violations of this Zoning Code that do not constitute an emergency or require immediate attention, the Commissioner of Building Inspection and ~~or the Commissioner of Code Enforcement~~ *and/or the Planning Director* must give notice of the nature of the violation to the property owner or to any other person who is party to the agreement or to any applicant for any relevant permit in the manner hereafter stated, after which the persons receiving notice will have up to 30 days to correct the violation before further enforcement action will be taken.

1115.0802 Emergency Matters

In the case of violations of this Zoning Code that constitute an emergency situation as a result of public safety concerns or violations that will create increased problems or costs if not remedied immediately, the City may use the enforcement powers available under this Zoning Code without prior notice, but the Commissioner of Building Inspection and ~~or the Commissioner of Code Enforcement~~ *and/or the Planning Director* must attempt to give notice simultaneously with beginning enforcement action. Notice must be provided to the property owner and to applicants for any relevant permit.

1115.0803 Appeals

Enforcement actions by the Commissioner of Building Inspection and ~~or the Commissioner of Code Enforcement~~ *and/or the Planning Director* may be appealed to the Board of Zoning Appeals, in accordance with Sec. 1111.2000. A pending appeal to the Board of Zoning Appeals does not stay a decision to revoke a certificate or permit.

1115.0900 | Determination of Status as Household

1115.0901 Determination

Upon investigation, complaint or application of a person aggrieved, the Commissioner of Building Inspection and ~~or the Commissioner of Code Enforcement~~ *and/or the Planning Director* shall make a written determination of whether a specified group of persons constitutes a household by virtue of being the functional equivalent of a family.

Exhibit “A”

(Additions in italic highlight. Deletions in strikethrough.)

1115.0902 Transferability

The determination of the Commissioner of Building Inspection and/or the Commissioner of Code Enforcement **and/or the Planning Director**, subject to any modification on appeal, shall be transferable with the entire group of persons constituting the household or with a majority of the persons constituting such household. It shall not run with the premises when occupied by a different household or other group of persons.

1115.0903 Appeal

The Commissioner of Building Inspection and/or the Commissioner of Code Enforcement **and/or the Planning Director’s** determination of functional equivalency may be appealed to the Board of Zoning Appeals in accordance with Sec. 1111.2000. In acting on appeals, the Board of Zoning Appeals shall apply the factors set forth in Sec. 1115.0904 and shall be authorized to overrule the Commissioner **and/or Planning Director’s** determination only where there is evidence in the record that the Commissioner **and/or Planning Director** erred. The following individuals have the right to appeal the Commissioner **and/or Planning Director’s** determination:

- A. any member of the group proposed as a household;
- B. the owner of the premises occupied by such group; or
- C. any other person aggrieved by the Commissioner **and/or Planning Director’s** determination.

1115.0904 Factors

The determination of whether a group of unrelated persons living together are the functional equivalent of a family shall be based on such of the following factors as may be known to the Commissioner of Building Inspection and/or the Commissioner of Code Enforcement **and/or the Planning Director**. The presence or absence of any single factor is not necessarily determinative of whether the unit constitutes a family:

1115.0905 The Commissioner of Building Inspection and/or the Commissioner of Code Enforcement **and/or the Planning Director** shall make the determination of whether the group constitutes a household based on a preponderance of the evidence. Where there is prima facie evidence supporting only one side of the proposition, the Commissioner **and/or Planning Director** shall make a determination that is supported by that prima facie evidence unless the Commissioner finds compelling evidence for the other side of the proposition, a finding which should normally be supported by at least four of the factors listed above.