



## **TOLEDO-LUCAS COUNTY PLAN COMMISSIONS**

ONE GOVERNMENT CENTER, SUITE 1620, TOLEDO, OHIO 43604

PHONE 419-245-1200 FAX 419-936-3730

THOMAS C. GIBBONS, DIRECTOR



REF: M-10-18  
DATE: February 15, 2019

TO: President Matt Cherry and Members of Council, City of Toledo

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

SUBJECT: Study of Residential Drug and Alcohol Treatment Centers

The Toledo City Plan Commission considered the above-referenced request at its meeting on Thursday, February 14, 2019 at 2:00 P.M.

### **GENERAL INFORMATION**

#### Subject

Request	-	Study of Residential Drug and Alcohol Treatment Centers
Applicant	-	Toledo City Council

### **STAFF ANALYSIS**

The request is a study to review residential drug and alcohol treatment centers by Toledo City Council in order to understand better the saturation of these facilities in specific locations, to examine any adverse impacts, and recommend changes that can be made to ensure a more equitable distribution throughout Toledo. As part of this request Toledo City Council also enacted a moratorium on new facilities in Council District Four until April 15, 2019 to provide time to examine this issue. Given the complexities surrounding this use type staff took a comprehensive approach to this request and examined all facilities related to drug and alcohol treatment. This subject has a number of topics that should be addressed and what follows provides an overview that will serve as a guide moving forward.

## **STAFF ANALYSIS (cont'd)**

### *Terminology*

Treatment terminology differs between mental health professionals and local zoning regulations. From a mental health standpoint there are four categories for treatment facilities: outpatient, detox centers, residential, and recovery housing. Outpatient facilities provide treatment without overnight stays with clients visiting on an as needed basis. Detox centers provide treatment and short term stays (typically 3-10 days) in a clinical setting and are designed to help someone dealing with withdrawal symptoms. Residential facilities provide treatment and intermediate term stays (typically 30-90 days) in a structured and programmed environment. Typical services include medical treatment, counseling, group therapy, and potentially other social services. Recovery houses provide little to no treatment and the longest term stays (typically 30 days and longer) and are the closest of all four categories to what would fit a residential use zoning definition. These facilities provide a peer supported environment for individuals who need assistance maintaining sobriety while transitioning back into society. Treatment does not typically occur on-site except for informal activities such as house meetings. Residents often continue to receive outpatient treatment on a limited basis.

Detox tends to be the first step in treatment and the most intense, followed by a residential facility, and ending with limited outpatient services and if necessary a recovery house stay. A key distinction between a residential facility and a recovery house is the scale of treatment. An individual at a residential facility may receive up to thirty hours of treatment a week compared to five hours a week at a recovery house. A residential facility also tends to be a more controlled environment compared to a recovery house where there are very little restrictions on access to and from the facility. Recovery housing is not intended for individuals receiving intensive treatment services. Residents usually have completed the most intensive parts of treatment and need a stable housing environment with peer support before transitioning back on their own. Providers interviewed for this study estimated that the need for recovery housing could be as high as fifty (50) percent of all treatment cases.

Part of the challenge lies with funding. There are funds available to build these facilities, but limited dollars to actually run them. State rules also restrict the use of public dollars for non-treatment purposes like room and board. The Mental Health and Recovery Service Board (MHR SB) of Lucas County assists with a small stipend per individual to help offset the room and board costs for a limited number of recovery housing beds, but the need far exceeds the supply. Some providers mix these categories and use recovery housing as a home base while transporting residents to an outpatient facility for treatment and in a sense function as a residential facility creating additional complexities with this use. As a result, recovery housing is the most complicated facility type to regulate. They can easily mix a residential use with treatment services, do not require licensing by the state, and are not typically operated by providers because of funding issues.



## **STAFF ANALYSIS (cont'd)**

### *Terminology (cont'd)*

Local zoning regulations have two classifications for these drug treatment facilities: residential and non-residential. Both types require a Special Use Permit approved by City Council, are subject to a 500' spacing requirement and limited to one per block in specific zoning districts. A residential treatment facility requires Multiple Dwelling Residential RM12, RM24, RM36, or Regional Commercial CR zoning. A nonresidential facility requires Mixed Commercial-Residential CM, Storefront Commercial CS, Regional Commercial CR, or Institutional Campus IC zoning. A recovery house is considered a residential drug treatment facility if any treatment, including counseling or house meetings, is occurring at the property. Otherwise it is considered a group rental and in residential districts must be located along a major street and limited to a maximum of three individuals.

### *Data Sources*

The next item to consider is the current locations of facilities. It can be a challenge not only to gather and verify this type of information, but to also maintain it since facilities can open and close within a short period of time. Two data sources were used for this study: City of Toledo Special Use Permit (SUP) data and licensing information from the Ohio Department of Mental Health and Addiction Services (OhioMHAS). OhioMHAS data used in the study was requested, compiled and verified by the Mental Health and Recovery Service Board of Lucas County as of May 1, 2018. Crime data for 2018 was reviewed by our office with a focus on concentrations of crime, but was not included due to the difficulty of showing a relationship between crime and a single variable.

There are limitations with the SUP and OhioMHAS data. First, SUP data does not show active facilities only facilities that have filed a SUP. Second, OhioMHAS licensing is valid for a specific time period, sometimes up to three years. It is possible that some of these facilities have closed, but this will not be reflected in OhioMHAS data until the licenses lapses. Third, facilities can provide multiple levels of treatment, including treatment unrelated to substance abuse, and the MHR SB of Lucas County classified facilities based on board knowledge of the services provided and the most restrictive type of treatment first. Fourth, providers seeking state Medicaid dollars are required to register with the Ohio Department of Mental Health and Addiction Services (OhioMHAS). However, there is always a possibility that some providers would forgo this licensing and only accept federal Medicaid, private insurance, cash, or donations. Additions to the facility list were made by the MHR SB and our office where information was available.

## **STAFF ANALYSIS (cont'd)**

### *Data Sources*

It is also important to note that in order to qualify for Medicaid an individual must live at a certain threshold of the poverty level. This means that facilities shown in the OhioMHAS data are more likely to disproportionately correspond with lower income neighborhoods where concentrations of poverty are more prevalent. Conversely, those who can afford to pay out of pocket for services would likely look at more desirable destination locations than what the Toledo area can provide.

### *Data Analysis*

A review of SUP data revealed that in the past eleven years there have been sixteen (16) requests for SUPs to operate residential or non-residential drug treatment facilities. Thirteen (13) of the sixteen (16) were applied in 2014 or later. Only two (2) facilities were not approved. District Four received seven (7) of the fourteen (14) applications. Of those seven (7) applications, four (4) received a spacing waiver in order to operate. Those were the only facilities to receive spacing waivers. This information is included as Exhibit "A" of this report.

Data provided by the MHR SB of Lucas County showed that there were forty-five (45) facilities located in the City of Toledo with six (6) additional facilities in Lucas County. Twenty-five (25) of the forty-five (45) facilities were located in District Four. This equates to fifty-five (55.6) percent of all facilities within one council district. The remaining facilities were more or less evenly distributed among the five remaining districts. This information is included as Exhibit "B" of this report.

The disconnect between the number of facilities in the OhioMHAS data and the SUP data is noticeable. If ten additional years of SUPs were reviewed there would only be two additional facilities since 1997. Some of this can be explained by grandfathered facilities that preceded the current zoning regulations. However, it is an unlikely explanation for thirty-two (32) of the forty-five (45) facilities, which equates to seventy-one (71) percent of all facilities. A more plausible explanation for many of these facilities is that many were opened without local zoning approval. This was also an item that providers mentioned during interviews. Identifying these facilities was unfortunately outside the scope of what could be accomplished in the specified time frame.



## **STAFF ANALYSIS (cont'd)**

### *Provider Interviews*

Telephone interviews were conducted with three local providers to better understand their decision making process when locating new facilities as well as gain a broader perspective on the subject of treatment and regulations. Providers interviewed for this study had experience opening facilities both inside and outside of Toledo. Opening a facility in Toledo was generally viewed as more challenging compared to nearby communities such as Sylvania Township or Perrysburg Township. In fact, facilities that were approved in Toledo were actually opened in other nearby communities due to unexpected costs or substantial delays in the review process.

When asked about the factors considered for opening new facilities providers offered a number of responses. The most emphasized factor was the location relative to areas of greatest need. These were frequently identified as the neighborhoods around Downtown, the Old South End, and East Toledo. Other factors included: access to public transportation, cost relative to square footage, proximity to other facilities for staffing and treatment purposes, regulatory reviews and the previous use of the building.

The focus on greatest need is due in part to the challenge of making sure that facilities are easily accessible for the people they are intended to serve. Most providers do not specifically track transportation but indicated that walking, public transportation or rides from others are the most common ways clients get to treatment. As a result, outpatient facilities tend to be located closer to the greatest concentration of clientele because of limited access to transportation and the fact that these services are provided over a longer time and require a higher number of trips to and from the facility. There is more flexibility for locating residential treatment in more remote areas because transportation is usually only needed once when entering and once when leaving. This distinction is also reflected in local parking requirements for a residential facility compared to non-residential.

Discussion also centered around state changes in 2017 that allowed for-profit enterprises access to Medicaid dollars for drug treatment. This change along with the scale of the opioid crisis in Ohio has attracted significant interest from out-of-state providers. This appears to have come at the expense of local providers who recently have been forced into difficult financial choices, including layoffs. The concern is that out-of-state providers will exit the community once the funding ends creating a void in the community for mental health services. This has tempered future plans for some providers who believe that the Toledo area may already be at or near capacity based on existing beds in the area, underutilized facilities, and upcoming changes to state funding. Others are still considering expansion plans provided that capital can be secured.

## **STAFF ANALYSIS (cont'd)**

### *Provider Interviews (cont'd)*

Data provided by the MHRSB of Lucas County offered a snapshot of where clients who received alcohol, other drug, and mental health treatment resided. The information was broken down for Toledo and non-Toledo residents, by council district, and by race. It was compiled using Medicaid and MHRSB of Lucas County claims for a one-year period starting July 1<sup>st</sup>, 2016 through June 30<sup>th</sup>, 2017. The information shows that 31,771 individuals received some level of mental health treatment in Lucas County and that 23,369 individuals or seventy-three (73.5) percent resided in Toledo. Council Districts Three and Four had the highest percentage of Toledo residents with 5,279 individuals or twenty-two (22.6) percent and 5,473 individuals or twenty-three (23.6) percent respectively. A complete summary of the information is included as Exhibit "C" of this report. It is important to note that claim data does not distinguish drug treatment from other forms of mental health.

### *Toledo Regulations*

As outlined earlier, drug treatment facilities require a Special Use Permit in most zoning districts. The Special Use Permit typically takes 90-120 days to complete. It requires hiring a design professional to prepare plans, scheduling a neighborhood meeting, and attending at least two public hearings: one for the Toledo Plan Commission and one for Zoning and Planning Committee of City Council. An applicant is also required to file with Building Inspection for an Occupancy Permit along with any proposed internal changes. This usually requires interior plans prepared by a licensed architect in the State of Ohio. If the proposed use falls under a different building code than the previous use, changes will be required to the building. Providers who went through this process noted the amount of changes required and revisions and delays experienced during the review process. However, these building regulations are necessary for the general health, safety, and welfare of the public.

The building permit process is fairly standard throughout Ohio as all communities are subject to the same state building codes. The biggest adjustment usually occurs when providers identify a facility with a similar previous use and find out during the Building Permit review that the building classifications are actually considered different and that structural changes need to be made.

## **STAFF ANALYSIS (cont'd)**

### *Research*

Staff researched six (6) of the largest cities in Ohio to understand the issues facing other communities and how they are addressing the challenges from the opioid crisis. This included: Columbus, Cincinnati, Cleveland, Akron, Dayton, and Youngstown. Zoning regulations were examined along with follow-up emails and telephone calls with each City. A brief summary follows with the full information is included as Exhibit "D" of 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 zoning codes.

A summary of key findings includes:

- **Recovery Houses:** This category had the most variation in regulations. Two (2) communities allow as a group rental with no stipulations, two (2) communities allowed as residential facilities with some stipulations, and two (2) communities specifically classified as drug treatment and are allowed only in commercial, industrial or institutional districts.
- **Residential Drug Treatment:** Four (4) communities did not distinguish a residential drug treatment use from other residential facilities. Smaller facilities (between 1-5) were permitted in most single family districts, sometimes with stipulations. Larger facilities (6-16) were allowed in multi-family, commercial, and industrial districts, sometimes with stipulations.
- **Spacing/Conditional Uses/Licensing:** Three (3) communities require spacing from other residential facilities, two (2) communities require licensing for residential facilities, and four (4) communities allow larger facilities in multi-family residential subject to conditional uses.
- **Outpatient/Intensive Inpatient (Detox):** Four (4) communities permit outpatient/intensive inpatient facilities by right in most commercial districts. Two (2) communities permit intensive inpatient in institutional districts only.

### *Conclusions*

The first item to consider is the approach to waivers. There would be four fewer facilities in District Four had waivers not been granted. Spacing is a widely used zoning tool to ensure that uses are not concentrated in a specific area. Treatment facilities also likely benefit from being spread out in the community rather than concentrated because of the need to normalize and integrate individuals back into the community. Examining a higher burden on hardships is something to be considered.



**STAFF ANALYSIS (cont'd)**

*Conclusions (cont'd)*

Second, the disparity between the number of approved SUPs (14) and the number of facilities from the MHR SB of Lucas County data (45) cannot be explained by grandfathered locations alone. This information could be explored in greater detail with the goal of identifying the number of facilities that may have opened illegally, especially in District Four. It would also address comments heard during the interview process concerning fairness, especially for providers who followed the rules and went through the SUP process. This would require cooperation from multiple departments to address illegally opened facilities.

Third, it is clear from the research of other Ohio communities that Toledo has some of the highest regulatory requirements for these facilities. For example, Toledo is the only community that requires a special review for non-residential facilities. Most communities did not have any plans to revisit or modify their regulations to address the opioid issue in Ohio. A few communities felt that while these facilities may have issues, they had not reached the point where widespread changes were necessary.

Fourth, there is an opportunity to balance the needs of equitable distribution of facilities in Toledo while assisting providers with opening new locations by modifying the review process. On one end of the spectrum is the City of Toledo which requires a special review for all facilities with spacing. On the other end are communities that allow these facilities by right subject to certain licensing standards like the City of Columbus. There is a dramatic gap between these two approaches and communities operating somewhere in between. One possible adjustment to help incentivize facilities in other locations is to remove the SUP review in commercial districts, but maintain and possibly expand the spacing requirement up to 1,000 or 2,000 feet. If a spacing issue is present, the location could still be considered but would be require a SUP. The streamlined regulatory process in areas without a concentration of facilities would offer an incentive to providers. Non-residential facilities could also be expanded to Commercial Office zoning.

Fifth, there is unlikely to be a perfect location for these facilities. Previous SUP cases have demonstrated that residential and commercial neighbors are both likely to be concerned about a drug treatment facility. Yet few would question the need for these facilities in the community. The lack of proposed language changes and lower regulatory requirements in other Ohio communities suggests that at least part of locating these facilities is an issue of perception. If there is truly no perfect location for these facilities, scaling back the regulatory burden in areas where few are concentrated would help Toledo equitably distribute these facilities. The SUP process would remain an option in highly concentrated areas and the MHR SB of Lucas County could be engaged as part of the review process. They are closely involved in the mental health community and could offer an additional perspective for new facilities in highly concentrated areas.



## **STAFF ANALYSIS (cont'd)**

### *Conclusions (cont'd)*

Sixth, longer term residential stays in recovery houses were consistently identified as an area of need. The current regulatory requirements in Toledo are substantial. Communities have adopted various approaches to these uses from a special review similar to Toledo, to allowing them based on the number of individuals. Some consider these types of living arrangements as group rentals or residential facilities and allow them subject to licensing and spacing. As highlighted earlier, there are a number of challenges and complexities involved with these uses, which is why staff has not made any proposed changes residential facilities in residential districts.

Staff recommends the changes as outlined in items four and five of this conclusion with spacing increased to 1,000 feet. The scaled back regulations for facilities in commercial districts while reserving the SUP process for areas where facilities are concentrated along with an expanded spacing requirement would assist in the equitable sharing of these facilities in more neighborhoods. The review and input from the MHRSB of Lucas County for facilities needing a SUP in a concentrated area would provide an additional layer of scrutiny for the City to consider. Tougher review of SUPs for facilities in concentrated areas would help ensure a fairer distribution through Toledo. A closer review of all facilities in Toledo to determine those that are operating without proper approvals with cooperation from other departments and political support for those deemed operating illegally would further reduce facilities in concentrated areas. The full amended language is included as Exhibit "E" of this report along with a map showing the increased spacing distance for new facilities included as Exhibit "F".

## **PLAN COMMISSION RECOMMENDATION**

The Toledo City Plan Commission recommends approval of M-10-18, a Study of Residential Drug and Alcohol Treatment Centers, as proposed and modified in Exhibit "E" to Toledo City Council for the following two (2) reasons:

1. The proposed Text Amendment meets the challenges of a changing condition with the increased prevalence of drug treatment facilities - **TMC 1111.0506(A)**; and
2. The proposed Text Amendment is consistent with the stated purpose of the Zoning Code and protects the health, safety, and general welfare of the citizens of Toledo through a more equitable distribution of a needed use within the community – **TMC 1111.0506(B)**.

TO: President Cherry and Members of Council  
February 15, 2019  
Page 10

REF: M-10-18

Respectfully Submitted,

A handwritten signature in dark ink, appearing to read "Thomas C. Gibbons". The signature is fluid and cursive, with the first name "Thomas" being the most prominent.

Thomas C. Gibbons  
Secretary

JL  
Exhibits "A", "B", "C", "D", "E", "F" follow

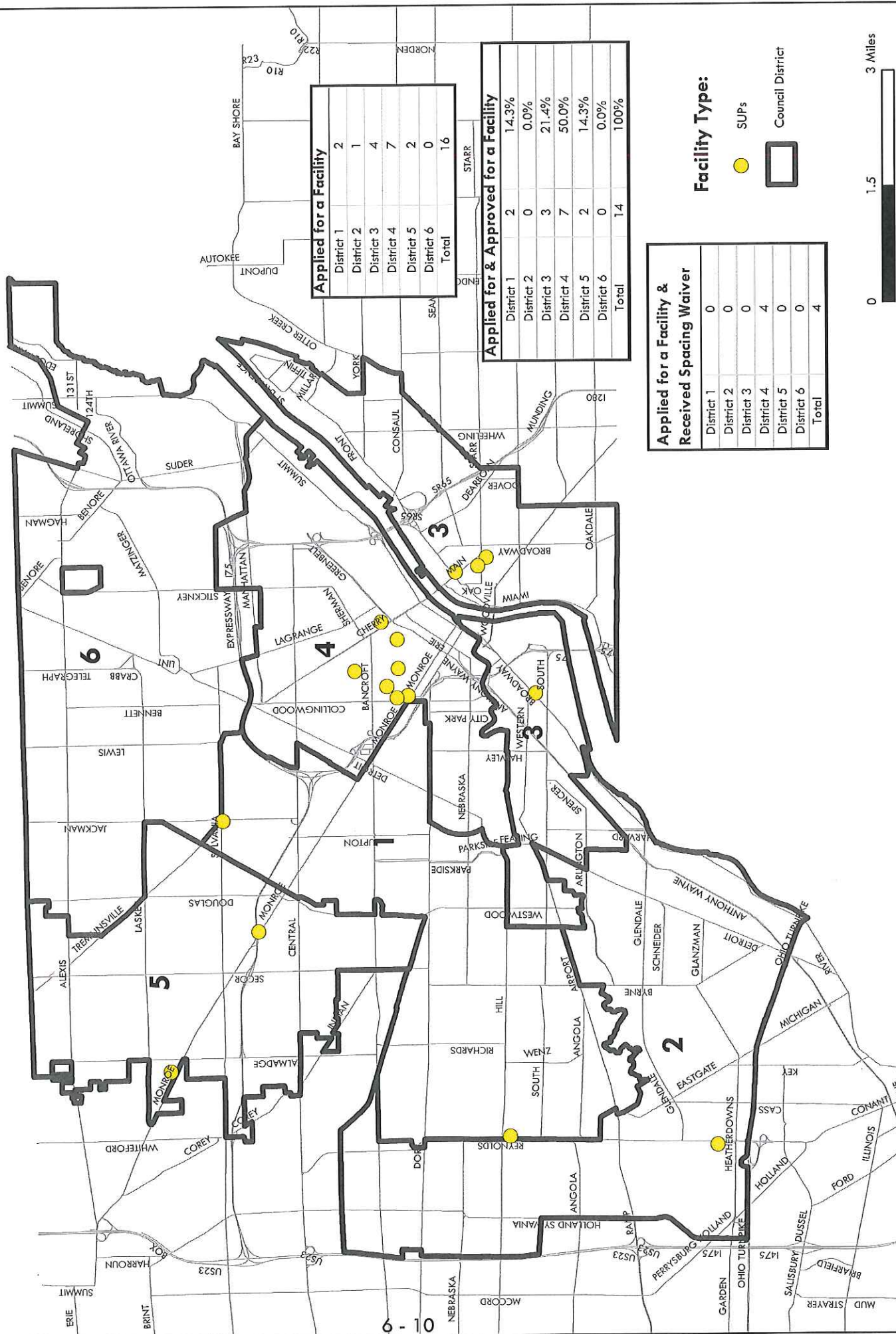
Cc: Lisa Cottrell, Administrator  
Josh Lewandowski, Principal Planner



# Drug and Alcohol Facilities

# EXHIBIT "A"

Special Use Permit (SUP) Approvals by Toledo Council Districts



Applied for a Facility	
District 1	2
District 2	1
District 3	4
District 4	7
District 5	2
District 6	0
Total	16

Applied for & Approved for a Facility	
District 1	2
District 2	0
District 3	3
District 4	7
District 5	2
District 6	0
Total	14

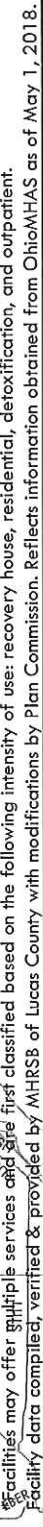
Applied for a Facility & Received Spacing Waiver	
District 1	0
District 2	0
District 3	0
District 4	4
District 5	0
District 6	0
Total	4

Facility Type:

- SUPs
- Council District



# EXHIBIT "B"





# EXHIBIT "C" CLAIMS DATA

M-10-18

## Lucas County Mental Health & Recovery Services Board Alcohol & Other Drug & Mental Health Treatment Consumers by City Council District 7/1/2016 - 6/30/2017

Individuals	District 1	District 2	District 3	District 4	District 5	District 6	Outside of Toledo	Total
Black	2,120	883	1,078	3,005	416	923	1,880	10,305
Hispanic	124	135	393	214	70	143	344	1,423
White	1,404	1,750	3,373	1,840	1,500	2,187	5,316	17,370
Other or Unknown	267	225	435	414	195	275	862	2,673
<b>Total</b>	<b>3,915</b>	<b>2,993</b>	<b>5,279</b>	<b>5,473</b>	<b>2,181</b>	<b>3,528</b>	<b>8,402</b>	<b>31,771</b>

Tuesday, January 8, 2019

MACSIS & MITS Claims Extract

Steve Spinelli

## Comparative Analysis of Drug Treatment Regulations

REQUIREMENTS FOR:	Akron	Cincinnati	Cleveland	Columbus	Dayton	Toledo	Youngstown
<b>RESIDENTIAL</b>							
Group Rental							
Maximum Size	5	4	3	5	3	3	2
Major Street / Spacing	-	-	-	-	-	Y	-
Recovery Housing	Y	-	-	Y	-	-	-
Small Facility							
Size	1-5	1-8 [1]	1-5	1-5	1-5	1-6/8 [2]	3-5/6-10 [3]
Licensing	-	-	-	Y	-	-	Y
Spacing	-	-	1,000 FT	-	-	500 FT	2,000 FT
Zoning							
Single Family	CU	P [1]	P	P	P	P	P [4]
Multiple Family	CU	P [1]	P	P	P	SUP	P [4]
Commercial	CU	P [1]	P	-	-	-	P [4]
Industrial	CU	P [1]	P	-	-	-	-
Large Facility							
Size	6+	No Limit	6-16	6+	6-16	9-16	11-16
Licensing	-	-	-	Y	-	-	Y
Spacing	-	-	1,000 FT	-	-	500 FT [5]	2,000 FT
Zoning							
Single Family	CU	-	-	-	-	-	P [4]
Multiple Family	CU	P	CU	P	CU	SUP	P [4]
Commercial	CU	P	CU	-	-	SUP	P [4]
Industrial	CU	P	CU	-	-	-	-
Drug Treatment [6]							
Spacing	-	-	-	-	1,000	500 FT [5]	-
Zoning							
Multiple Family	-	-	-	-	-	SUP	-
Commercial	-	P [7]	-	-	P [8]	SUP	-
Industrial	-	P	-	-	-	-	-
Institutional	-	CU	-	-	P [8]	-	-
<b>NON-RESIDENTIAL</b>							
Outpatient							
Spacing	-	-	-	-	-	500 FT [5]	-
Commercial	P	P	P	P	P	SUP	P
Institutional	-	P	-	P	P	P	-
Inpatient							
Spacing	-	-	-	-	-	500 FT [5]	-
Commercial	-	P	P [9]	P	P	SUP	-
Institutional	P	P	P	P	P	P	P

[1] Developmental disabilities only

[2] A maximum of 6 or 8 if allowed by state law

[3] Max of 5 for small / 10 for medium

[4] Subject to spacing and a licensed approved by the Health Department

[5] 500 Feet and 1 per block

[6] If viewed separately than a residential facility

[7] Permitted by right in office and auto oriented districts

[8] Permitted in Light Industrial and Institutional Campus, and in Downtown subject to spacing.

[9] General Commercial only



**Exhibit “E”**

(Additions in bold, italic highlight. Deletions in strikethrough.)

**1104.0100 Use Table**

Use Category	RS 12	RS 9	RS 6	RD 6	RM (all)	R MH	CN	CO	CM	CS	CR	CD	IL	IG	IP	POS	IC
<b>Residential</b>																	
Drug and Alcohol Treatment Center, Nonresidential	–	–	–	–	S [8]	–	–	–	–	–	S <b>P</b> [8]	–	–	–	–	–	–
<b>Commercial Use Types</b>																	
<b>Medical Services</b>																	
Drug and Alcohol Treatment Center, Nonresidential	–	–	–	–	–	–	–	<b>P</b> [8]	S <b>P</b> [8]	S <b>P</b> [8]	S <b>P</b> [8]	–	–	–	–	–	P

**1104.1000 | Group Living and Day Care – Spacing**

1104.1001 Group Living facilities, Type A Family Day Care Home and Nonresidential Drug and Alcohol Centers that are subject to this spacing requirement Section in the Use Table of Sec. 1104.0100, must be at least 500 feet from a site with any other Group Living facility, Type A Family Day Care Home, and Nonresidential Drug and Alcohol Center that is also subject to this spacing requirement.

1104.1002 In no case may more than one facility subject to this Section be located on the same block.

1104.1003 Halfway houses must be at least 2,000 feet away from other halfway houses. (Ord. 552-11. Passed 11-29-11.)

***1104.1004 Drug and Alcohol Residential Facilities and Drug and Alcohol Treatment Centers, Nonresidential must be at least 1,000 feet away from other Drug and Alcohol Treatment Centers.***

***A. Facilities permitted by right shall request a letter from the Plan Commission indicating the location is properly zoned and not in violation of spacing requirements. If a spacing violation exists, a facility may request approval through the Special Use Permit process.***

***B. Facilities requiring a Special Use Permit shall be forwarded to the Mental Health and Recovery Service Board of Lucas County for an opportunity to provide input as part of the review process.***

**Exhibit "E"**

(Additions in bold, italic highlight. Deletions in strikethrough.)

**1104.0100 Use Table**

Use Category	RS 12	RS 9	RS 6	RD 6	RM (all)	R MH	CN	CO	CM	CS	CR	CD	IL	IG	IP	POS	IC
<b>Residential</b>																	
Drug and Alcohol Treatment Center, Nonresidential	-	-	-	-	S [8]	-	-	-	-	-	S <b>P</b> [8]	-	-	-	-	-	-
<b>Commercial Use Types</b>																	
<b>Medical Services</b>																	
Drug and Alcohol Treatment Center, Nonresidential	-	-	-	-	-	-	-	<b>P</b> [8]	S <b>P</b> [8]	S <b>P</b> [8]	S <b>P</b> [8]	-	-	-	-	-	P

**1104.1000 | Group Living and Day Care – Spacing**

1104.1001 Group Living facilities, Type A Family Day Care Home and Nonresidential Drug and Alcohol Centers that are subject to this spacing requirement Section in the Use Table of Sec. 1104.0100, must be at least 500 feet from a site with any other Group Living facility, Type A Family Day Care Home, and Nonresidential Drug and Alcohol Center that is also subject to this spacing requirement.

1104.1002 In no case may more than one facility subject to this Section be located on the same block.

1104.1003 Halfway houses must be at least 2,000 feet away from other halfway houses.  
(Ord. 552-11. Passed 11-29-11.)

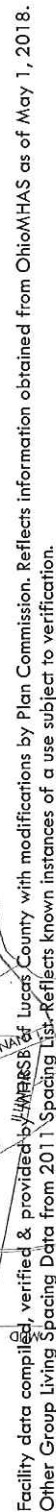
***1104.1004 Drug and Alcohol Residential Facilities and Drug and Alcohol Treatment Centers, Nonresidential must be at least 1,000 feet away from other Drug and Alcohol Treatment Centers.***

***A. Facilities intending to locate in an area permitted by right shall request a letter from the Plan Commission indicating the location is properly zoned and not in violation of spacing requirements. If a spacing violation exists, a facility shall obtain approval through the Special Use Permit process.***

***B. Facilities requiring a Special Use Permit shall be forwarded to the Mental Health and Recovery Service Board of Lucas County for an opportunity to provide input as part of the review process.***



# EXHIBIT "F"



## Lewandowski, Joshua

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**From:** Lewandowski, Joshua  
**Sent:** Friday, February 1, 2019 4:20 PM  
**To:** Scott Sylak  
**Subject:** Drug & Alcohol Treatment Study in the City of Toledo  
**Attachments:** M-10-18 Report 02-14.pdf; M-10-18 Public Notices 02-14.pdf

Scott,

I'm attaching a slightly revised copy of the report along with meeting notices for the Drug and Alcohol Treatment Study in the City of Toledo. Due to the lack of quorum at the previously scheduled meeting, this report will now be discussed at the Toledo City Plan Commission hearing on February 14 at 2:00PM in Toledo City Council Chambers of One Government Center. Will you share this information again with those on your email list?

Please let me know if you have any comments or questions.

Regards,

Josh Lewandowski, AICP  
Principal Planner  
Toledo Lucas County Plan Commissions  
One Government Center, Ste. 1620  
Toledo, OH 43604  
419-245-1200

## Lewandowski, Joshua

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**From:** Lewandowski, Joshua  
**Sent:** Tuesday, January 15, 2019 2:19 PM  
**To:** Thomas, George  
**Subject:** Drug & Alcohol Treatment Study  
**Attachments:** M-10-18 Report.pdf; M-10-18 Plan Commission Notice.pdf; M-10-18 City Council Notice.pdf

George,

I'm attaching a copy of the report and hearing notices for the Drug and Alcohol Treatment Study in the City of Toledo. This report will be discussed at a specially scheduled Toledo City Plan Commission hearing on January 23<sup>rd</sup> at 9:30AM in the Toledo City Council Chambers of One Government Center. Please let me know if you have any comments or questions.

Regards,

Josh Lewandowski, AICP  
Principal Planner  
Toledo Lucas County Plan Commissions  
One Government Center, Ste. 1620  
Toledo, OH 43604  
419-245-1200



## Current Conditions

Currently the Toledo Plan Commission and Toledo Inspection Division have difficulty enforcing the Toledo Municipal Code in the enforcement of Special Use Permits granted within city limits. This proposed legislation is intended to address and fund the necessary record keeping enabling knowledge of who maintains Special Use Permits .

SUP data does not show active facilities, only facilities that have filed a SUP. Often the lack of required properly zoned Special Use Permits is only brought to the attention of the City Of Toledo in the processing of SUP applications for adjoining properties. Currently Special Use Permits have no termination date and pass with the transfer of property even if inappropriate.

*Not necessarily True*

*TMC 1111.0707(13)*

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Centers

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The next item to consider is the current locations of facilities. It can be a challenge not only to gather and verify this type of information, but to also maintain it since facilities can open and close within a short period of time. Two data sources were used for this study: City of Toledo Special Use Permit (SUP) data and licensing information from the Ohio Department of Mental Health and Addiction Services (OhioMHAS). OhioMHAS data used in the study was requested, compiled and verified by the Mental Health and Recovery Service Board of Lucas County as of May 1, 2018. Crime data for 2018 was reviewed by our office with a focus on concentrations of crime, but was not included due to the difficulty of showing a relationship between crime and a single variable.

There are limitations with the SUP and OhioMHAS data. First, SUP data does not show active facilities only facilities that have filed a SUP. Second, OhioMHAS licensing is valid for a specific time period, sometimes up to three years. It is possible that some of these facilities have closed, but this will not be reflected in OhioMHAS data until the licenses lapses.

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## STAFF ANALYSIS (cont'd)

### Data Analysis (cont'd)

Data provided by the MHR SB of Lucas County showed that there were forty-five (45) facilities located in the City of Toledo with six (6) additional facilities in Lucas County. Twenty five (25) of the forty-five (45) facilities were located in District Four. This equates to fifty-five (55.6) percent of all facilities within one council district. The remaining facilities were more or less evenly distributed among the five remaining districts. This information is included as Exhibit "B" of this report.

The disconnect between the number of facilities in the OhioMHAS data and the SUP data is noticeable. If ten additional years of SUPs were reviewed there would only be two additional facilities since 1997. Some of this can be explained by grandfathered facilities that preceded the current zoning regulations. However, it is an unlikely explanation for thirty-two (32) of the forty five (45) facilities, which equates to seventy-one (71) percent of all facilities. A more plausible explanation for many of these facilities is that many were opened without local zoning approval. This was also an item that providers mentioned during interviews. Identifying these facilities was unfortunately outside the scope of what could be accomplished in the specified time frame.

## **ZONING AND PLANNING**

In order for the City of Toledo Plan Commission and Toledo City Council to :

- 1.) enforce the provisions of the Toledo Municipal Code and;
- 2.) provide for the safe and orderly development of the City;
- 3.) while being desirous of making the best planning and zoning decisions;
- 4.) ensuring the protection of property, neighborhoods, and rights of all residents;
- 5.) while recognizing that enforcement of the Toledo Municipal Code is limited by a lack of the current continuing relevant status of Special Use Permits;
- 6.) it is necessary to pass an ordinance to help accomplish these goals.



Therefore ;

The following **PROPOSED LANGUAGE** for an ordinance to be added to Toledo Municipal Code Section :

1111.0700 Special uses.

*Licensing  
Finance*

**PROPOSED ANNUAL REQUIRED NOTIFICATION**

**1111.0710 ANNUAL SPECIAL USE PERMIT NOTIFICATION BY PERMIT HOLDERS**

Any individual, group, or institution, whether for or not for profit, ( known hereafter as the **Special Use Permit holder** ) (**SUP Permit Holder**); operating or controlling property within the City of Toledo, having been previously properly granted, is being granted, or subsequently hereafter is granted a Special Use Permit (SUP), or variance in compliance with the Toledo Municipal Zoning Base Code requirements therefore is subject to these requirements :

A. Any **SUP Permit Holder**, is required to annually notify and submit an **Annual Special Use Permit Notice Of Intent Form** (Annual Notice Of Intent) for each and any property location granted an SUP or variance by the City of Toledo. The notice of intent annual notification form may be procured from the Toledo City Plan Commission, or downloaded at this website ( ). Failure to secure from the Plan Commission office or website and submit a **Special Use Permit Notice Of Intent Form** , along with a processing fee of \$25.00 for each SUP location when submitted, does not relieve the **permit holder** from the necessity to file annually.

B. It is the responsibility of the permit holder to secure and file timely, the **Special Use Permit Notice Of Intent Form** and remit the permit fee within the three week period after the start of each New Year's Day (January 1) ;

C. Physical receipt of the **Annual Notice Of Intent Form** by the Plan commission, is required on or before, last day of January. Failure of the permit holder to file the properly completed **Annual Special Use Permit Notice Of Intent Form**, and filing fee, means indicates that it is the intent of the SUP Permit holder that the SUP or variance is being voided and surrendered by the permit holder.

D.) If the **permit holder**, for those properly registered in the previous year, fails to register the Annual Notice Of Intent by the deadline, the Plan Commission will send a registered letter to the last contact address of record as listed on the last Annual Notice Of Intent. Payment of a hundred dollar processing fee will be required, ( \$ 100.00 Late Fee will apply ) If the permit holder does not want to void the SUP or variance. An hearing before the Plan Commission will be scheduled which will be the last chance the permit holder has to redeem the SUP or variance. Changes by the Plan Commission to the SUP or variance require consent by City Council.



- E.) Failure to cooperate or to appear before the Plan Commission will indicate that the permit holder has in fact surrendered the SUP or variance.
- F.) Failure to file the Annual Notice Of Intent means that any SUP or variance previously granted ceases to legally exist as of March 1 of any given calendar year, unless it is redeemed or modified due to Plan Commission action per D above to restore the status of the SUP or variance.
- G.) Any new application for a voided or surrendered SUP or variance for any location may not be entertained by the Plan Commission for six months if any property is sold or transferred without a properly filed, with permit fee, Annual Notice Of Intent Form.
- H.) Use of any residence or property in the City of Toledo without being properly issued a SUP or variance as required by the Toledo Municipal Zoning Code will result in a fine of one hundred (\$ 100.00) dollars per day per location in violation of this ordinance.
- I.) The Plan Commission is responsible for having the following :
- 1.) A complete listing, updated monthly, of all permit holders, locations, status of all recognized permits and the conditions mandated as granted by the City of Toledo;
  - 2.) Current comprehensive contact information for Permit holders;
  - 3.) Records of all complaints or violations of note for a property or location, affecting use, or consideration of renewal of the SUP or variance.
  - 4.) Keeping a detailed mapping system that allows identification of all other SUP and variance permit holders in each zoning category, within 500' feet of any SUP location;
  - 5.) Having information that is accurate and transparent to all. Such that the Toledo Plan Commission and Toledo City Council have the ability to make informed planning and zoning decisions transparent to the citizens. At all times the City of Toledo needs to know the location and status of all SUP permit holders;
  - 6.) The Law Department and Department of Inspection will be notified, in writing by the Plan Commission staff of any changes, to ensure that SUP permit holders who have lost or surrendered a SUP or variance cease operation, and owners secure the location so it does not become a nuisance to adjoining properties or the neighborhood;
  - 7.) The City will prosecute those who fail to procure the proper permits in the use of any residence or property in the City of Toledo found without having been properly issued a SUP or variance required by the Toledo Municipal Zoning Code. It shall result in a fine of one hundred ( \$ 100.00 ) dollars per day per location until such illegal use ceases.
- J.) All revenues received through the **ANNUAL SPECIAL USE PERMIT NOTIFICATION BY PERMIT HOLDERS** shall be deposited in Account No. xxxxxx-xxxx-xxxxx. Toledo Plan Commission Operations Fund.