



Legislation Text

File #: O-147-22, **Version:** 1

Zoning & Planning Committee

Repealing and amending portions of Toledo Municipal Code, Part Eleven, Subsections 1104.0100 and 1104.0600 Convenience Stores, to remove the 2000-foot spacing requirement and remove the requirement for a Special Use Permit; and declaring an emergency.

SUMMARY & BACKGROUND:

This request is for the review of Toledo Municipal Code Section 1104.0603 to remove the 2000-foot spacing requirement between convenience stores in a special use permit. The spacing requirement for convenience stores was first added to the TMC in 1993 by Ordinance 781-93. The 2004 comprehensive rewrite of the zoning code resulted in the removal of the spacing requirement. Legislation passed in 2009, Ordinance 568-09, reinstated the spacing requirement. The text change prohibited a convenience store from locating within 2,000 feet of another convenience store or within 1,000 feet of schools, parks, libraries, licensed day cares or children-oriented uses. Existing convenience stores will be a legal conforming status. This proposed amendment will remove the required 2,000-foot spacing requirement between convenience stores. The consequences of having that section has allowed for establishments to have government protection by controlling new competition through the zoning process.

Research conducted by the Urban Land Institute shows that urban neighborhoods are betwixt and between limited retail businesses to serve local residents. These same residents end up traveling outside of their neighborhoods for basic goods. Many metropolitan areas are redirecting growth back into existing communities to improve neighborhood retail experiences. In the spirit of laissez-faire competition, the removal of the 2,000-foot spacing between convenience stores should create an environment of healthy competition.

Plan Commission staff recommends that special use permits for convenience stores be removed entirely as licensing is a better tool to address nuisances associated with convenience stores. The list of concerns indicated by residents involving convenience stores include problems of business operations, behaviors of customers, public health and safety infractions. As a result, Council approved Ordinance 545-21, amending Chapter 721 entitled "Neighborhood Plans" through adopting "Convenience Stores Licensing Requirements" which requires all convenience store operators to acquire a license to operate.

Any new construction of a convenience store development would be subject to a Site Plan Review to ensure compliance with the standards of the Zoning Code. This process reviews land use conflicts and whether a project meets commercial design standards which encourage attractive street fronts and accommodates pedestrian and vehicular movement.

The Toledo City Plan Commission recommends approval of M-26-21, a request to remove the 2000-foot spacing requirement between convenience stores in the special use permit Section 1104.0603 of the Toledo Municipal Code. Plan Commission further recommends the removal of the requirement for a Special Use Permit for convenience stores.

NOW, THEREFORE, Be it ordained by the Council of the City of Toledo:

SECTION 1. That Toledo Municipal Code, Part Eleven, Subsection 1104.0100, which reads as follows:

**Chapter 1104 | Use
Regulations
Sec. 1104 0100 | Use Table**

Use Category	RS 12	RS 9	RS 6	RD 6	RM (all MH)	R	CN	CO	CM	CS	CR	CD	IL	IG	IP	PO S	IC
Financial, Insurance and Real Estate Services	-	-	-	-	-	-	P [13]	P	P	P	P	P	-	-	-	-	-
Short-Term Lender	-	-	-	-	-	-	P [29]	P [29]	P [29]	P [29]	P [29]	P [29]	-	-	-	-	-

Food and Beverage Retail
Sales

Large Stores	-	-	-	-	-	-	P [13]	-	P	P	P	P	-	-	-	-	-
Convenience Stores	-	-	-	-	-	-	S [18]	-	S [18]	S [18]	S [18]	S [18]	-	-	-	-	-

Is hereby amended.

SECTION 2. That Toledo Municipal Code, Part Eleven, Subsection 1104.0100 be amended to read as follows:

**Chapter 1104 | Use
Regulations
Sec. 1104 0100 | Use Table**

Use Category	RS 12	RS 9	RS 6	RD 6	RM (all MH)	R	CN	CO	CM	CS	CR	CD	IL	IG	IP	PO S	IC
Financial, Insurance and Real Estate Services	-	-	-	-	-	-	P [13]	P	P	P	P	P	-	-	-	-	-
Short-Term Lender	-	-	-	-	-	-	P [29]	P [29]	P [29]	P [29]	P [29]	P [29]	-	-	-	-	-

Food and Beverage Retail
Sales

Large Stores	-	-	-	-	-	-	P [13]	-	P	P	P	P	-	-	-	-	-
Convenience Stores	-	-	-	-	-	-	P [13]	-	P	P	P	P	-	-	-	-	-

SECTION 3. That Toledo Municipal Code, Part Eleven, Subsection 1104.0600, which reads as follows:
1104.0600 Convenience stores.

The following standards apply to convenience stores with a floor area of less than 5,000 square feet.

1104.0601 Hours of Operation.

The hours of operation of a convenience store may be limited to 5:30 a.m. to 1:00 a.m., or other hours consistent with a liquor permit issued by the State of Ohio, as a condition of development approval. Particular attention will be given to convenience stores located adjacent to any residential district, school, place of religious assembly, park, or playground.

1104.0602 Negative Secondary Effects.

The Special Use permit granted for a convenience store shall be subject to review on an annual basis and may be amended or revoked by action of City Council in consultation with the Plan Commission if said convenience store is determined to have significant negative secondary effects that have not been sufficiently alleviated under zoning, building or health code regulations. Negative secondary effects are defined as:

- A. Litter, broken bottles and paper discards that diminish the aesthetics of the immediate area. (See [Chapter 521](#) of the General Offenses Code).
- B. Noise, disruption from the carryout to the quiet enjoyment of adjoining residential districts, and public and civic uses. (See [Chapter 507](#) of the General Offenses Code).
- C. Traffic, traffic noise and congestion.
- D. Pedestrian congestion which can intimidate individual patrons and disrupt neighborhood civility.

1104.0603 Spacing Requirements.

- A. A convenience store shall not be located within a 2,000-foot radius of another convenience store, whether that other convenience store is operating pursuant to a Special Use Permit or operating without such Special Use Permit by virtue of having been in operation prior to the requirement to obtain such permit.
- B. A convenience store shall not be located within a 1,000-foot radius of a school, public park, public library, licensed child day care center, or other use established specifically for the activities of minors.
- C. The distances specified in this section shall be measured per TMC [1106.0208 Distances for Spacing Requirements](#).
- D. A convenience store shall not be subject to the foregoing restrictions if the convenience store is located within the boundaries of any Community Entertainment District (CED) now in existence or subsequently established by ordinance of City Council.

Is hereby repealed.

SECTION 4. That this Ordinance hereby is declared to be an emergency measure and shall be in force and effect from and after its passage. The reason for the emergency lies in the fact that same is necessary for the immediate preservation of the public peace, health, safety and property, and that this Ordinance must be immediately effective in order to provide for the orderly development of the area and to protect the land values

in the area.

Vote on emergency clause: yeas _____, nays _____.

Passed: _____, as an emergency measure: yeas _____, nays _____.

Attest: _____
Clerk of Council

President of Council

Approved: _____

Mayor

I hereby certify that the above is a true and correct copy of an Ordinance passed by Council

_____.

Attest: _____
Clerk of Council