



Legislation Text

File #: O-248-20, **Version:** 1

Zoning & Planning Committee

Amending Toledo Municipal Code (“TMC”), Part 13, Building Code, Chapter 1379, Subsection 1379.01, Definitions; Part 13, Building Code, Chapter 1387, Subsection 1387.05, Construction of Signs; and creating a new TMC, Part 13, Building Code, Subsection 1393.17, Off-Premises Poster Panels in the Downtown Overlay District; and declaring an emergency.

SUMMARY & BACKGROUND:

This is a Text Amendment to Toledo Municipal Code, Part 13, Building Code, Chapter 1379, Subsection 1379.01, Definitions; Part 13, Building Code, Chapter 1387, Subsection 1387.05, Construction of Signs; and creating a new TMC, Part 13, Building Code, Subsection 1393.17, Off-Premises Poster Panels in the Downtown Overlay District. The redevelopment of Downtown into a bustling business and entertainment district is ongoing. However, there remain unsightly walls on buildings in the downtown area for various reasons. The purpose of this Text Amendment is to allow for a limited number of Off-Premises Poster Panels in the Downtown Overlay District, in order to cover such unsightly walls and create a vibrant, colorful look to the downtown business and entertainment district.

On February 13, 2020, the Toledo City Plan Commission considered and recommended disapproval of the requested text amendment.

On June 17, 2020, Toledo City Council, Planning and Zoning Committee reviewed, and sent without recommendation the requested text amendment.

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

SECTION 1. That TMC, Part Thirteen, Subsection 1379.01(74)(a), which reads as follows:

1379.01(74)(a) Poster panels or bulletins normally mounted on a building wall, roof or free-standing structure with advertising copy in the form of pasted paper.

Is hereby repealed.

A new TMC, Part Thirteen, Subsection 1379.01(74)(a), is hereby enacted, to read as follows:

1379.01(74)(a) Poster panels or bulletins normally mounted on a building wall, roof or free-standing structure with advertising copy.

SECTION 2. That TMC, Part Thirteen, Subsection 1387.05(k)(20), which reads as follows:

1387.05(k)(20) Off-premise signs are prohibited within the Downtown Overlay District, the Monroe Street Corridor UNO District, Summit Street Corridor Redevelopment (SSCR) UNO District, and the Main

Street/Starr Avenue UNO District.

Is hereby repealed.

A new TMC, Part Thirteen, Subsection 1387.05(k)(20), is hereby enacted, to read as follows:

1387.05(k)(20) Off-premise signs are prohibited within the Downtown Overlay District, the Monroe Street Corridor UNO District, Summit Street Corridor Redevelopment (SSCR) UNO District, and the Main Street/Starr Avenue UNO District; with the exception that, in the Downtown Overlay District, Off-Premises Poster Panels as defined in TMC Subsection 1379.01(74)(a) are permitted subject to the regulations of TMC Subsection 1393.17 of this Code.

SECTION 3. That TMC, Part Thirteen, Chapter 1393, Prohibited Signs, shall be amended to add Subsection 1393.17, to read as follows:

1393.17 Off-Premises Poster Panels Permitted in Downtown Overlay District; Permits Required; Penalties.

(a) Definitions.

- (1) “Off-Premises Poster Panel” as used in this Section shall have the same meaning as the definition set forth in TMC Subsection 1379.01(74)(a).
- (2) “Display” shall be that portion of the Off-Premises Poster Panel which contains the advertisement copy.
- (3) “Downtown Overlay District” as used in this Section shall have the same meaning as the definition set forth in TMC Subsection 1103.0200 et seq.
- (4) “Owner,” “Operator,” and “Premises” shall have the same meaning as definitions set forth in TMC Subsections 1726.01 (b), (c), and (d), respectively.
- (5) “Permit Holder” shall be the person, firm, corporation, or association that has applied for and been granted a Permit pursuant to this Section.
- (6) “Property” is defined as any public or private property which is observable from the public right of way or from a public space.

(b) Permit required

- (1) Any person, firm, corporation, or association desiring to erect or replace an Off-Premises Poster Panel on any Property in the Downtown Overlay District shall first obtain a Permit from the Sign Inspector.
- (2) Application for such permit shall be made upon a form provided by the Division of Building Inspection. The Division of Building Inspection is hereby authorized to charge reasonable fees for evaluating such Applications and enforcing the provisions herein. Such Application shall be accompanied by such information as may be required to assure compliance with all appropriate laws and regulations of the City of Toledo, including but not limited to the following:

(A) Name and address of the owner of the Off-Premises Poster Panel;

(B) Name and address of the Owner or person in possession of the Premises where the Off-Premises

- Poster Panel is located or is proposed to be located;
- (C) Clear and legible drawings with description definitively showing the location of the Off-Premises Poster Panel which is the subject of the Permit;
 - (D) For new Off-Premises Poster Panel locations, a full-color photograph or digital image of the proposed wall location in the context of adjoining properties, depicting such wall location with the proposed Off-Premises Poster Panel in place to represent with general accuracy the appearance of the wall with the addition of the Off-Premises Poster Panel;
 - (E) The street address of the building upon which the Off-Premises Poster Panel is located or is proposed to be located;
 - (F) A list of streets and other vehicular rights of way to which the Off-Premises Poster Panel is or is proposed to be principally oriented;
 - (G) A calculation of the area upon which the Off-Premises Poster Panel is or is proposed to be located and a calculation of the area of the Off-Premises Poster Panel;
 - (H) If the area of the Off-Premises Poster Panel is or is proposed to be less than 80% of the wall area, the reasons for the smaller Off-Premises Poster Panel;
 - (I) A description of the medium used or to be used for the Off-Premises Poster Panel, and, if vinyl or other high-resolution material, a description of its grade and a calibration of the dots-per-inch (“DPI”) of the resolution of the Off-Premises Poster Panel;
 - (J) A list of the buildings within the Downtown Overlay District where existing Off-Premises Poster Panels are on display at the time of the filing of the Application for Permit, including the approximate distance(s) from each such building to the site of the proposed Off-Premises Poster Panel; and
 - (K) A statement as to whether the Owner or person in possession of the wall has consented to erection of the Off-Premises Poster Panel.
- (3) Standards for determining whether to issue Permit for Off-Premises Poster Panel
- (A) An application for a Permit to erect or replace an Off-Premises Poster Panel shall be granted if the Off-Premises Poster Panel as proposed on the Permit Application satisfies the criteria of this Section. Such criteria are in lieu of the prohibitions and/or the standards and guidelines prescribed and authorized elsewhere in TMC for a permit, certificate of appropriateness, or other approval by any agency or official of the City of Toledo, except those set forth in the Building Code addressing structures and materials for signs.
 - (B) Contents of Display not subject to approval. No agency or official of the City of Toledo shall prescribe or otherwise require approval of the color, graphic design, words, message, or any other element of the content of a display before granting a Permit or other approval required or authorized under TMC.
 - (C) No administrative authority to establish other criteria. No agency or official of the City of Toledo is authorized to establish criteria, standards, or guidelines that add restrictions,

conditions, or requirements to those set forth in this Section.

- (4) Time for granting or denying Application for Permit.
 - (A) Within 30 days of receipt of Application for Permit, or up to an additional 30 days if requested by the Applicant, the Sign Inspector shall grant or deny the Application for Permit, and shall notify the Applicant, the Commissioner of Building Inspection, and the Director of Zoning and Planning in writing of such decision.
 - (B) An Application for Permit shall be deemed denied only by written notification to the Applicant, identifying each ordinal provision that was not satisfied and the reason it was not satisfied.
 - (C) The Application shall be deemed granted if not denied in accordance with the provisions of this Section.
 - (D) An Applicant who has been denied a Permit under this Section may appeal such decision to the Board of Zoning Appeals as set forth in TMC Subsection 1381.05.
- (5) Permit Terms.
 - (A) All approvals required for the erection or placement of Off-Premises Poster Panels shall be documented by notation on the Permit Application during its evaluation, or by issuance of a separate legal instrument reciting such approval. No Permit shall be issued if such approvals have not been obtained.
 - (B) A Permit issued in accordance with this Section shall be construed to be a license to proceed during the life of such Permit with the erection or replacement of the Off-Premises Poster Panel as described in the approved Permit Application so long as fewer than 5 Off-Premises Poster Panels are on display simultaneously within the Downtown Overlay District, exclusive of legal non-conforming Off-Premises Poster Panels or wall signs. All Permits and Permit Applications authorized by this Section shall be in the name of the person in control of the Off-Premises Poster Panel, and all Permits approved under the provisions of this Section shall be in the name of the Permit Applicant (the "Permit Holder"). Such Permits shall convey to the Permit Holder all rights and privileges prescribed by this Section, which rights and privileges may be assigned; and impose on the Permit Holder all duties prescribed by this Section, which duties may be delegated. The Permit Holder, including all assignees and delegees, shall place a nameplate on the Off-Premises Poster Panel when erected or replaced which identifies the Permit Holder, including any assignees and delegees, and shall notify the Sign Inspector of the identity and mailing address of such Permit Holder, and any and all assignees and delegees.
 - (C) Nothing in this Section shall be construed as authorizing the erection or placement of an Off-Premises Poster Panel without the consent of the Owner or person in possession of the wall where the Off-Premises Poster Panel is or is proposed to be located.
 - (D) Expiration. A Permit to erect or replace any Off-Premises Poster Panel shall expire if the Off-Premises Poster Panel is not erected and bearing an Off-Premises Poster Panel within 1 year after the date of the issuance of such Permit.
 - (E) Permit holders authorized pursuant to this Section to erect or replace Off-Premises Poster Panels shall have priority over all other holders based on the date and time of issuance of each Permit,

with the earlier date and time having priority.

(F) Any Off-Premises Poster Panel must be removed if it has no display for a continuous period of 6 months. It shall not be re-erected or replaced without first obtaining a new Permit pursuant to this Section.

(G) The Division of Building Inspection shall keep a permanent record of all Permits issued for Off-Premises Poster Panels, including dates and times of issuance, which shall be available for public inspection and copying.

(H) Change or replacement of Off-Premises Poster Panel display. A change or replacement of an Off-Premises Poster Panel display shall not require a Permit or any other approval by the Division of Building Inspection. However, a change of material or method of attachment to the building or wall shall be deemed a replacement of the Off-Premises Poster Panel, requiring a new Permit.

(6) Enforcement. Whenever the Sign Inspector finds that an existing Off-Premises Poster Panel is not in conformity with this Section, or that the structure of the Off-Premises Poster Panel or its attachment to the building is in hazardous condition, they shall notify the Permit Holder for such Off-Premises Poster Panel a written notice of such violation by certified mail, such notice to state the defects and requiring the Permit Holder to correct or abate such defects within 30 days. The Sign Inspector shall otherwise follow the procedures set forth in TMC.

(c) Design Standards for Off-Premises Poster Panel.

(1) Primarily pictorial. The Off-Premises Poster Panel shall display non-verbal graphic or non-verbal photographic images, and may display words. The aggregate area of all words on a static Off-Premises Poster Panel, exclusive of the Off-Premises Poster Panel nameplate and trademarks, service marks, or other distinct product or company logos, if any, shall not comprise more than 20% of the area of the Off-Premises Poster Panel.

(2) Medium. The medium for the Off-Premises Poster Panel shall be electronic as a static or moving image or a combination of each, or as a static image upon a single sheet of vinyl or other material which presents a high-resolution image ("high-resolution material"). A display is "electronic" if its images, while being displayed on the Off-Premises Poster Panel, are generated by computer or otherwise by the controlled conduction of electrons or other electric charge carriers.

(3) If the Medium is vinyl or other high-resolution material, it shall comply with all of the following:

(A) The resolution of the Off-Premises Poster Panel shall be a minimum of 300 dots-per-inch ("DPI");

(B) If vinyl, the grade of vinyl shall be a minimum of 12-ounce flex vinyl, 12-ounce mesh vinyl, or 12-ounce sailcloth vinyl;

(C) The Off-Premises Poster Panel may be changed up to 6 times within any 12-month period in addition to any change needed to repair or restore the Off-Premises Poster Panel if the structure or medium is defaced, damaged, or destroyed; and

(D) The structure to which the vinyl or other high-resolution material Off-Premises Poster Panel is attached shall not appear from line of sight in front of the Off-Premises Poster Panel as a distinct

frame surrounding the exterior of the Off-Premises Poster Panel.

- (4) Size. The total area of the Off-Premises Poster Panel shall be no less than 80% of the total area of the wall on which the Off-Premises Poster Panel is located, except where:
 - (A) A smaller Off-Premises Poster Panel is required to avoid covering a distinctive architectural or historic feature of the building;
 - (B) A smaller Off-Premises Poster Panel is required to avoid interference with line-of-sight visibility of the Off-Premises Poster Panel to vehicular traffic to which the Off-Premises Poster Panel is oriented by structures, other buildings, trees, or other obstacles;
 - (C) A smaller Off-Premises Poster Panel is required to ensure safety in erecting, changing, or maintaining the Off-Premises Poster Panel or structure to which it is affixed; or
 - (D) A smaller Off-Premises Poster Panel is required because the structure of the building or wall will not support or otherwise accommodate the structure necessary for the Off-Premises Poster Panel to cover 80% of the wall area.
- (5) Maximum number of Off-Premises Poster Panels. Exclusive of legal nonconforming Off-Premises Poster Panel or wall signs, no more than 5 Off-Premises Poster Panel authorized and permitted under this Section may be displayed simultaneously within the Downtown Overlay District.
- (6) Spacing requirements. No Off-Premises Poster Panel permitted under this Section shall be located within a 750-foot radius of any existing Off-Premises Poster Panel permitted under this Section, exclusive of legal nonconforming Off-Premises Poster Panels or wall signs.
- (7) Standards for wall placement.
 - (A) The Off-Premises Poster Panel shall be displayed on an exterior wall in a manner parallel with the wall surface.
 - (B) The Off-Premises Poster Panel shall not project more than 16 inches from the wall surface if the medium is vinyl or other high-resolution material, and not more than 28 inches if the medium is electronic.
 - (C) The Off-Premises Poster Panel shall be set back from each horizontal and vertical edge of the wall a minimum of 6 inches.
 - (D) The Off-Premises Poster Panel's size and placement shall be appropriate to achieve the objective a beautifying the unsightly wall.
 - (E) The Off-Premises Poster Panel shall not cover, destroy, or materially alter an architectural feature distinct from a generally flat, unornamented wall surface.
 - (F) The Off-Premises Poster Panel shall not cover, destroy, or materially alter a distinctive architectural or historic feature of a building unless the Sign Inspector permits the Off-Premises Poster Panel to cover such feature.
 - (G) Finishes, textures, construction techniques, designs, colors, craftsmanship, and materials that characterize a distinctive historic or architectural feature of a building shall be preserved. To

prevent material alteration:

- (i) Off-Premises Poster Panels adjacent to a distinctive historic or architectural feature of a building shall be secured in a manner that, if removed in the future, would not impair the form or integrity of such feature;
- (ii) Chemical or physical treatments, such a sandblasting, that may cause damage to any distinctive historic or architectural features shall not be used; and
- (iii) All surface cleaning of the portion of the Off-Premises Poster Panel or underlying wall adjacent to the distinctive historic or architectural feature shall use a means which will not disturb such feature’s color, texture, or other visual qualities, accelerate deterioration, or otherwise impair the structure of such feature.

(8) Illumination. Except for displays which are electronic, the displays of Off-Premises Poster Panels shall be illuminated from an external light source onto the display. No such illumination shall be directly connected to the electrical system of the building unless an electrical permit has first been obtained from the Division of Building Inspection.

(9) Repair and removal. Each Off-Premises Poster Panel shall be secured in a manner which will require minimal repair after removal. The Permit holder, or the Owner of the wall on which the Off-Premises Poster Panel is affixed, shall repair all damage caused to the wall by securing or removing the Off-Premises Poster Panel. Upon removal, if required by the Sign Inspector, the entire wall face shall be painted by the Owner or person in possession of the wall with a high-quality exterior paint guaranteed by the manufacturer to last at least 10 years before weather causes the paint to deteriorate. The paint shall be a solid color that is consistent with the color of the building and in compliance with all provisions of TMC.

SECTION 4. That this Ordinance is hereby 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 effective immediately in order to provide for the orderly development of the area and to protect the land values of the area.

Vote on emergency clause: yeas _____, nays _____.

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

Attest: _____
Clerk of Council

President of Council

Approved: _____

Mayor