



Legislation Text

File #: O-014-20, **Version:** 1

Zoning & Planning Committee

Approving and adopting the M-10-19 Study of Residential Drug and Alcohol Treatment Centers, as an amendment to the Toledo Municipal Code for the City of Toledo, Ohio; and declaring an emergency.

SUMMARY & BACKGROUND:

This case was previously heard at the February 14, 2019 Toledo City Plan Commission hearing and the March 20, 2019 Zoning and Planning Committee meeting. It was deferred for six months by Toledo City Council to allow additional time to study the issue and address concerns presented at the March 20th meeting and referred back to the Plan Commission staff at the August 14, 2019 meeting as the six month, September 18, 2019 deadline approached. Additionally, an extension of the moratorium on Drug & Alcohol Facilities in District 4 is set to expire on December 31, 2019.

An update on activity since the deferral in March follows:

Meetings were held with public agencies and the Law Department to review some of concerns from the March 20th meeting. Staff agreed to adjust the classification criteria of a residential facility to focus on licensed medical treatment and exempt informal treatment such as house meetings from this category. This shifts most recovery housing to a “Household Living” or “Group Living” use based solely on the number of residents and the configuration of the structure. The most common configuration is a “Group Rental” land use, where individuals have separate bedrooms/beds, but share a larger communal living space.

The separation of longer term housing from medical treatment adds clarity to the “Drug and Alcohol Residential Facility” use, by focusing on the non-residential services provided and the number of individuals at the facility similar to other use categories, such as a “Nursing Home.” It also is consistent with state laws that allow local governments to regulate a “Residential Facility, Large” differently than a “Residential Facility, Small” as the only difference between these categories is the number of individuals residing at the facility.

A review of “Drug & Alcohol” facilities since March 20, 2019 was conducted. Four (4) additional Special Use Permits (SUPs) have been requested, including two (2) in District 5. This brings the total number of legally approved facilities in the city to nineteen (19) and changes the percentage breakdown by district. The eight (8) facilities in District 4 now account for 42.1% of all SUPs down from 50% earlier in the year, while District 5 saw the largest increase with four (4) total facilities and 21% of all legally approved SUPs. Districts 2 and 6 remain unchanged with no approved SUPs. An updated map of SUP applications is available in Exhibit “A” with a full listing of SUPs included as Exhibit “B”.

Six (6) additional treatment facilities requested a license with the state, one of those was outside city limits. Adding in the four (4) SUPs, this brings the total number of facilities to fifty four (54) in Toledo and sixty one (61) in Lucas County. Individual council districts saw modest shifts in percentages due to the larger overall based compared to SUPs. Districts 2, 4, and 6 saw modest declines, with District 4 declining 1.9%, from

55.6% to 53.7% of all facilities within Toledo. An updated map of all facilities is included as Exhibit “C”.

Part of this change can likely be attributed to the moratorium in District 4, but on a broader level it may also be driven by an increased awareness given the larger, ongoing policy discussions in the city. Conversations with local treatment providers suggested a stronger focus on data concerning areas of greatest need over the location of other treatment providers, which is understandable given the challenges that come with data gathering. It is further reinforced by the Medicaid claims data, in Exhibit “D”, showing that mental health services are accessed by residents throughout the City and not focused in one particular area.

Regulation will address part of the issue, but a larger question remains for providers operating without local approval. It also serves as a reminder that regulations need to be balanced to ensure the broadest level of compliance given that thirty five (35) of the fifty four (54) facilities operate without a SUP. Make the rules too difficult or burdensome and the city runs the risk of reducing compliance as businesses decide that risks of not complying outweigh the benefits. This in turn requires increasing time spent on monitoring and enforcement to the detriment of other services. Additional resources would likely be required given that out of the hundreds of SUPs approved in the city only a handful have been reviewed for compliance and fewer revoked.

This balance is further illustrated in the observations and conversations with other zoning departments in the State of Ohio. In fact, zoning research frequently reveals that Toledo is one of the most regulated land use communities and it holds true for both non-residential and residential treatment facilities. As discussed in the original report, Toledo is the only community of Ohio’s largest cities to specifically regulate non-residential facilities from other medical services and one of three (3) of the seven (7) communities surveyed that regulate residential treatment facilities from other types of group living facilities. Communities like Columbus, Dayton, and Cleveland are all dealing with the same opioid challenges but with fewer regulations and no current plans for modification.

After reviewing the initial recommendations from March, included as Exhibit “F” of this report, staff maintains that the previous proposal strikes an ideal balance between concerns from public agencies on access or opportunities for needed services and residents and elected officials on concentrations in specific areas of the community. The lowered regulatory burden when spacing is not an issue will serve as a catalyst to encourage compliance while still providing the city an avenue to review facilities when concentration or spacing is an issue. The regulations as proposed will reduce the concentration of facilities in a few areas and encourage the location of a vital public service throughout all neighborhoods. A potential impact of the changes on available land in the city is included as Exhibit “G” of this report.

Original Report

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 and extended until December 31, 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.

The Plan as an amendment to the Toledo Municipal Code was submitted to the Toledo City Plan Commission for its review and recommendation. This matter was considered by the Toledo City Plan Commission at its meeting on November 7, 2019 and the City Plan Commission recommended approval.

On December 11, 2019, the Zoning and Planning Committee of City Council considered the Study and the committee voted to forward to the full Council without recommendation the request to adopt the Study as an amendment to the Toledo Municipal Code. NOW, THEREFORE,

Be it ordained by the Council of the City of Toledo:

SECTION 1. That the Toledo Municipal Code Section 1104.0100 Use Table, which reads as follows:

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
Residential																	
Drug and Alcohol Treatment Center, Nonresidential	-	-	-	-	S [8]	-	-	-	-	-	S [8]	-	-	-	-	-	-
Commercial Use Types																	
Medical Services																	
Drug and Alcohol Treatment Center, Nonresidential	-	-	-	-	-	-	-	-	S [8]	S [8]	S [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.

Be amended to read as follows:

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
Residential																	
Drug and Alcohol Treatment Center, Nonresidential	-	-	-	-	S [8]	-	-	-	-	-	P [8]	-	-	-	-	-	-
Commercial Use Types																	
Medical Services																	
Drug and Alcohol Treatment Center, Nonresidential	-	-	-	-	-	-	-	P [8]	P [8]	P [8]	P [8]	-	-	-	-	-	P

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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.

SECTION 2. 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 for the further reason that it is required 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