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Title: Repealing Toledo Municipal Code (“TMC”) Chapter 133; enacting a new TMC Chapter 133; and declaring an emergency.

Sponsors: Eileen Granata

Indexes:

Code sections:

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7/19/2022	1	City Council		
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Amending TMC Ch. 133 - DPU
 DPU/Law
 E. Moore (x1847)/E. Granata (x1034)

Repealing Toledo Municipal Code (“TMC”) Chapter 133; enacting a new TMC Chapter 133; and declaring an emergency.

SUMMARY & BACKGROUND:

This Ordinance amends Toledo Municipal Code (“TMC”) Chapter 133, Department of to update the Chapter to align with current operating structure and align functions with the organizational plan submitted by the Administration with the budget. The ordinance aligns the Chapter with the Department’s current three commissioner and existing operating divisional structure. The Ordinance also removes provisions which pertained to engineering the “Call City Hall”, which functions are proposed to be managed by the new Department of Transportation and the Department of Information Technology, respectively, pursuant to separate ordinances. The Ordinances also adds some provisions related to permitting that were previously contained in Ch. 127, the Department of Public Service, despite the fact those items were administered by DPU. The proposed Ordinance also allows for the designation of Deputy Director of Public Utilities upon appointment by the Mayor and approval of Council.

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

SECTION I. That the existing Toledo Municipal Code (“TMC”) Chapter 133, Department of Public Utilities, which reads as follows:

CHAPTER 133
Department of Public Utilities

- 133.01 Department of Public Utilities created.
- 133.02 Appointment of Director.
- 133.03 Duties of Director.
- 133.04 Division of Water created.
- 133.05 Assistants to Director of Public Utilities.
- 133.06 Inspections and investigations.
- 133.07 Certification and filing of reports.
- 133.08 Division of Water Reclamation created.
- 133.09 Commissioner of Treatment Services; duties.
- 133.10 Division of Parking created. (Repealed)
- 133.11 Commissioner of Parking; duties. (Repealed)
- 133.12 Division of Utilities Administration established.
- 133.13 Commissioner of Customer Services; duties.
- 133.14 Division of Environmental Services established.
- 133.15 Commissioner of Environmental Services.
- 133.16 Sewer and Drainage Services Division established.
- 133.17 Commissioner of Sewer and Drainage Services Division; duties.
- 133.18 Division of Water Distribution established.
- 133.19 Call City Hall.
- 133.20 [Engineering Services Division established.]
- 133.21 [Commissioner of Engineering Services Division; duties.]

133.01 Department of Public Utilities created.

The Department of Public Utilities is hereby created as an administrative department in the City.

133.02 Appointment of Director.

The Director of the Department of Public Utilities shall be appointed by the Mayor in the manner provided by the Charter to serve at the pleasure of the Mayor.

133.03 Duties of Director.

The Director of Public Utilities shall have the duty and obligation to perform the following:

- (a) Conduct a continuous study of rates and charges established and charged by all public utilities operating within the City.
- (b) Investigate any and all complaints made by citizens of alleged overcharging or imposition of unreasonable rates or charges by any public utilities operating in the City.
- (c) To keep a record of all franchises, renewals and extensions granted by the City.
- (d) To make, wherever necessary, physical evaluation of the plants and equipment of all public utilities and to keep continuous records of all additions or extensions to such plants and equipment of such utilities.
- (e) To make continuous note of the character of service and equipment of all public utilities operating in the City and to make reports and recommendations thereon through the Mayor to Council.
- (f) To investigate the accounts, records, operations and service of municipally owned utilities when specifically requested to make such investigation by the Mayor.
- (g) To initiate intervention, where deemed necessary, and represent the City, its citizens, residents and persons in hearings and other matters now before or hereinafter brought before the

State Public Utilities Commission, and to submit to the Mayor such reports, advice, suggestions or recommendations in connection with public utilities as are conducive to the public welfare.

(h) To examine and audit bills for service rendered by any public utility operating in the City and to perform such other duties as may be prescribed by the Charter, ordinance of Council or the Mayor.

(i) To manage the water and sewage collection, treatment distribution and administration systems operated by the City of Toledo.

(j) To manage the enforcement of pollution control and environmental protection ordinances of the City of Toledo and, where appropriate, the State of Ohio and the United States.

(k) To establish and enforce such bylaws and regulations, and appoint, authorize or assign any rights or duties, as may be deemed necessary and proper for the performance of the duties and obligations provided for in this chapter.

133.04 Division of Water created.

There is hereby created a Division of Water within the Department of Public Utilities.

133.05 Assistants to Director of Public Utilities.

The Director of Public Utilities shall have such clerical, engineering, technical and other assistants as authorized by the Mayor with the approval of Council.

133.06 Inspections and investigations.

All private utilities operating in the City shall permit the Director of the Department of Public Utilities or his authorized representative to inspect and investigate the operations and property of all such public utilities. All such public utilities shall keep open all records of accounts, revenues and expenses pertinent to its operations, as the Director of Public Utilities may from time to time require his agent or agents to inspect, investigate or audit.

133.07 Certification and filing of reports.

A copy of all annual reports to the stockholders of such public utilities and of all reports filed with any other regulatory agency shall be filed and certified to by an officer of such public utility with the Director of Public Utilities no later than thirty days after the preparation and submission of such reports.

133.08 Division of Water Reclamation created.

A Division of Water Reclamation in the Department of Public Utilities is hereby created and established.

133.09 Commissioner of Treatment Services; duties.

The Commissioner of Treatment Services shall supervise the Division of Water and the Division of Water Reclamation and shall perform such other duties imposed upon him by ordinance of Council, the Mayor and the Director of Public Utilities. The Commissioner shall be responsible for the management, operation and maintenance of the water treatment and wastewater reclamation facilities of the City.

133.12 Division of Utilities Administration established.

There is hereby created the Division of Utilities Administration within the Department of Public Utilities.

133.13 Commissioner of Customer Services; duties.

The Commissioner of Customer Services shall supervise the Division of Utilities Administration and the Division of Water Distribution and shall perform such other duties imposed upon him by ordinance of Council, the Mayor and the Director of Public Utilities. The Commissioner shall be responsible for all customer services and financial activities of the water and sewer utilities as well as the water distribution systems of the City.

133.14 Division of Environmental Services established.

(a) There is hereby created a Division of Environmental Services within the Department of Public Utilities.

(b) All references in Title Five of Part Seventeen - Toledo Environmental Services Code to the Division of Pollution Control shall mean the Division of Environmental Services.

133.15 Commissioner of Environmental Services.

(a) The Commissioner of Environmental Services shall perform the duties imposed by ordinance of Council and such further duties as may be prescribed by the Mayor and the Director of Public Utilities.

(b) The Commissioner of Environmental Services hereinafter referred to as the Commissioner, in addition to any other powers vested by law, shall have the following powers and duties:

(1) Exercise general supervision over the Division of Environmental Services personnel and the enforcement of all laws pertaining to pollution control and environmental protection.

(2) Submit to Council, after consultation with and approval of the Mayor and Director of Public Utilities, such proposed ordinances or amendments as may be necessary and proper to prevent or control pollution.

(3) Prepare long range plans for pollution control and environmental protection, and report annually through the Director of Public Utilities, to the Mayor and to Council on current progress.

(4) Advise, consult and cooperate with other local governmental agencies, the Federal Government, industries and with interested persons and groups.

(5) Attend public and private hearings relating to pollution control and environmental protection or matters dealing with the administration of the Toledo Environmental Services Code.

(6) Inventory and maintain current data on pollution control and the condition of the environment and conduct studies, inspections and research relative thereto.

(7) Investigate complaints and issue such orders as may be necessary to effectuate the purposes of the Toledo Environmental Services Code, including but not limited to, approval of equipment and/or installations, consent orders, orders of abatement, and enforce the same by all appropriate administrative and judicial proceedings.

(8) Conduct hearings as authorized by law, administer oaths, issue subpoenas for the attendance of witnesses, and make a record of the proceedings.

(9) Collect and disseminate information, conduct educational and training programs and encourage voluntary cooperation by persons or affected groups to achieve the purposes of the Toledo Environmental Services Code.

(10) Request, accept, receive and administer grants or other funds from public and private agencies in cooperation with the United States Environmental Protection Agency and the Ohio Environmental Protection Agency.

(11) Take such steps as are necessary to ensure that all confidential records and information

are properly safeguarded.

(12) Accept delegation of authority from and cooperate with, and enter into agreements with public and private bodies on related matters of mutual concern.

(13) Function as the advisor to the Administration and Council on pollution control and environmental matters.

(c) (1) The Commissioner is hereby authorized and directed to prepare and promulgate, after consultation with and approval of the Mayor and Director of Public Utilities, such rules and regulations as are necessary and proper to effectuate the purposes of the Toledo Environmental Services Code, provided that such rules and regulations are consistent with such Code, as well as with the applicable provisions of the Charter and Toledo Municipal Code.

(2) The Commissioner is hereby authorized to alter, amend or rescind such rules and regulations after consultation with and approval of the Mayor and Director of Public Utilities, and to promulgate such revisions.

(3) The Commissioner is also authorized to designate testing methods when a particular method is not specified by this Code, from among standard or widely recognized methods, including but not limited to, methods of the American Society for Testing and Materials, American Society of Mechanical Engineers, or authorities of the State or Federal Government.

(4) The rules and regulations and any designated testing method, or any revision thereof, shall be effective thirty days after publication by the Commissioner and Director of Public Utilities in the Toledo City Journal, and copies thereof shall be provided for distribution to the public.

133.16 Sewer and Drainage Services Division established.

There is hereby created a Sewer and Drainage Services Division within the Department of Public Utilities.

133.17 Commissioner of Sewer and Drainage Services Division; duties.

(a) The Commissioner of the Sewer and Drainage Services Division shall perform the duties imposed upon him by ordinance of Council and such further duties as may be prescribed by the Mayor and the Director of Public Utilities.

(b) The Commissioner, under the general direction of the Director of Public Utilities shall be responsible for the administrative supervision of employees providing sewer and drainage services and related administrative and operative functional activities and responsibilities of the Division of Sewer and Drainage Services.

133.18 Division of Water Distribution established.

There is hereby created a Division of Water Distribution within the Department of Public Utilities.

133.19 Call City Hall.

The Department of Public Utilities shall maintain and staff an office for the purpose of receiving citizen calls concerning problems with the City's infrastructure and/or services. This office shall be known of as "Call City Hall".

133.20 [Engineering Services Division established.]

There is hereby created an Engineering Services Division within the Department of Public Utilities.

133.21 [Commissioner of Engineering Services Division; duties.]

The Commissioner of the Engineering Services Division shall supervise the Engineering Services Division and shall perform the duties imposed upon him or her by ordinance of Council and such further duties as may be prescribed by the Mayor and the Director of Public Utilities.

is repealed

SECTION 2. That a new TMC Chapter 133, Department of Public Utilities, is enacted to read as follows

**CHAPTER 133
Department of Public Utilities**

- 133.01 Department of Public Utilities created
- 133.02 Appointment of Director
- 133.03 Duties of Director
- 133.04 Deputy Director and assistants to Director of Public Utilities
- 133.05 Inspections and investigations.
- 133.06 Certification and filing of reports.
- 133.07 Division of Utilities Administration.
- 133.08 Commissioner of Plant Operations
- 133.09 Division of Treatment Water Treatment
- 133.10 Division of Water Reclamation
- 133.11 Commissioner of Field Operations, appointment and duties
- 133.12 Division of Environmental Services.
- 133.13 Sewer and Drainage Services Division.
- 133.14 Division of Water Distribution.
- 133.15. Director of Public Utilities authorized to collect fees.
- 133.16 Director of Public Utilities authority with regard to water and sewer connections.

133.01. Department of Public Utilities created.

The Department of Public Utilities is hereby created as an administrative department in the City.

133.02. Appointment of Director.

The Director of the Department of Public Utilities shall be appointed by the Mayor in the manner provided by the Charter to serve at the pleasure of the Mayor.

133.03. Duties of Director.

The Director of Public Utilities shall have the duty and obligation to perform the following:

- (a) Conduct a continuous study of rates and charges established and charged by all public utilities operating within the City.
- (b) Investigate any and all complaints made by citizens of alleged overcharging or imposition of unreasonable rates or charges by any public utilities operating in the City.
- (c) To keep a record of all franchises, renewals and extensions granted by the City.
- (d) To make, wherever necessary, physical evaluation of the plants and equipment of all public

utilities and to keep continuous records of all additions or extensions to such plants and equipment of such utilities.

(e) To initiate intervention, where deemed necessary, and represent the City, its citizens, residents and persons in hearings and other matters now before or hereinafter brought before the State Public Utilities Commission, and to submit to the Mayor such reports, advice, suggestions or recommendations in connection with public utilities as are conducive to the public welfare.

(f) To examine and audit bills for service rendered by any public utility operating in the City and to perform such other duties as may be prescribed by the Charter, ordinance of Council or the Mayor.

(g) To manage the water and sewage collection, treatment distribution and administration systems operated by the City of Toledo.

(h) To manage the enforcement of pollution control and environmental protection ordinances of the City of Toledo and, where appropriate, the State of Ohio and the United States.

(i) To establish and enforce such bylaws and regulations, and appoint, authorize or assign any rights or duties, as may be deemed necessary and proper for the performance of the duties and obligations provided for in this chapter.

(j) To represent the City on the Regional Water Commission and provide necessary information and support for the Regional Water Commission to exercise its powers and duties under the Charter, including the review of proposed water rates and the utility's capital improvement budget.

133.04. Deputy Director and Assistants to Director of Public Utilities.

(a) The Deputy Director may be appointed by the Mayor in the manner provided in the Charter and shall serve as the Acting Director in the absence or unavailability of the Director. The Deputy Director shall report to the Director of Public Utilities and shall perform such other duties as may be prescribed by the Director of Public Utilities or the Mayor.

(b) The Director of Public Utilities shall have such clerical, engineering, technical and other assistants as authorized by the Mayor with the approval of Council.

133.05. Inspections and investigations.

All private utilities operating in the City shall permit the Director of the Department of Public Utilities or his authorized representative to inspect and investigate the operations and property of all such public utilities. All such public utilities shall keep open all records of accounts, revenues and expenses pertinent to its operations, as the Director of Public Utilities may from time to time require his agent or agents to inspect, investigate or audit.

133.06. Certification and filing of reports.

A copy of all annual reports to the stockholders of such public utilities and of all reports filed with any other regulatory agency shall be filed and certified to by an officer of such public utility with the Director of Public Utilities no later than thirty days after the preparation and submission of such reports.

133.07. Division of Utilities Administration; appointment and duties of Commissioner

(a) A Division of Utilities Administration in the Department of Public Utilities is established under the supervision of a Commissioner of Administrative Services, who shall be appointed by the Mayor in the manner provided by the Charter and shall serve at the pleasure of the Mayor.

(b) The Commissioner of Administrative Services report to the Director of Public Utilities and

shall have duties as may be prescribed by the Mayor or the Director of Public Utilities or as may be imposed by ordinance or other applicable law. The Commissioner shall have management and supervision of the financial operations, customer service, billing and collections, and other administrative support services and functions of the Department of Public Utilities.

133.08. Commissioner of Plant Operations; appointment and duties.

(a) The Commissioner of Plant Operations shall be appointed by the Mayor in the manner provided by the Charter and shall serve at the pleasure of the Mayor and under the supervision of the Director of Public Utilities.

(b) The Commissioner of Plant Operations shall undertake duties as may be prescribed by the Mayor or the Director of Public Utilities. The Commissioner shall serve as a member of the Regional Water Commission and shall prepare and provide information to the Regional Water Commission as necessary for Commission's conduct of its duties under the Charter. The Commissioner shall have oversight for the following Divisions and functions:

- (1) Division of Water Treatment;
- (2) Division of Water Reclamation.

133.09. Division of Water Treatment.

The Division of Water Treatment in the Department of Public Utilities is established under the authority of the Director of Public Utilities and supervision of a Commissioner of Plant Operations. The Division of Water Treatment shall be responsible for the management, operation and maintenance of the water treatment facilities of the City.

133.10. Division of Water Reclamation.

A Division of Water Reclamation in the Department of Public Utilities is established under the authority of the Director of Public Utilities and supervision of a Commissioner of Plant Operations. The Division of Water Reclamation shall be responsible for the management, operation and maintenance of the wastewater reclamation facilities of the City.

133.11. Commissioner of Field Operations; appointment and duties.

(a) The Commissioner of Field Operations shall be appointed by the Mayor in the manner provided by the Charter and shall serve at the pleasure of the Mayor and under the supervision of the Director of Public Utilities.

(b) The Commissioner of Field Operations shall undertake duties as may be prescribed by the Mayor or the Director of Public Utilities. The Commissioner shall have oversight for the following Divisions and functions:

- (1) Division of Environmental Services.
- (2) Division of Water Distribution;
- (3) Division of Sewer and Drainage Services.

133.12. Division of Environmental Services.

(a) A Division of Environmental Services within the Department of Public Utilities is established in the Department of Public Utilities under the authority of the Director of Public Utilities and supervision of a Commissioner of Field Operations. The Director shall appoint a Division Manager of Environmental Services with approval of the Mayor.

(b) All references in Title Five of Part Seventeen - Toledo Environmental Services Code to the

Division of Pollution Control shall mean the Division of Environmental Services.

(c) The Manager of Environmental Services shall report to the Commissioner of Field Operations and perform the duties as may be prescribed by Commissioner or the Director of Public Utilities or imposed by reason of federal or state environmental law or ordinance of Council.

(d) The Manager of Environmental Services, in addition to any other powers vested by law, shall have the following powers and duties:

(1) Exercise general supervision over the Division of Environmental Services personnel and the enforcement of all laws pertaining to pollution control and environmental protection.

(2) Submit to Council, after consultation with the Commissioner of Field Operations and approval of the Director of Public Utilities and the Mayor, such proposed ordinances or amendments as may be necessary and proper to prevent or control pollution.

(3) Prepare long range plans for pollution control and environmental protection, and report annually through the Director of Public Utilities, to the Mayor and to Council on current progress.

(4) Advise, consult and cooperate with other local governmental agencies, the Federal Government, industries and with interested persons and groups.

(5) Attend public and private hearings relating to pollution control and environmental protection or matters dealing with the administration of the Toledo Environmental Services Code.

(6) Inventory and maintain current data on pollution control and the condition of the environment and conduct studies, inspections and research relative thereto.

(7) Investigate complaints and issue such orders as may be necessary to effectuate the purposes of the Toledo Environmental Services Code, including but not limited to, approval of equipment and/or installations, consent orders, orders of abatement, and enforce the same by all appropriate administrative and judicial proceedings.

(8) Conduct hearings as authorized by law, administer oaths, issue subpoenas for the attendance of witnesses, and make a record of the proceedings.

(9) Collect and disseminate information, conduct educational and training programs and encourage voluntary cooperation by persons or affected groups to achieve the purposes of the Toledo Environmental Services Code.

(10) Request, accept, receive and administer grants or other funds from public and private agencies in cooperation with the United States Environmental Protection Agency and the Ohio Environmental Protection Agency.

(11) Take such steps as are necessary to ensure that all confidential records and information are properly safeguarded.

(12) Accept delegation of authority from and cooperate with, and enter into agreements with public and private bodies on related matters of mutual concern.

(13) Function as the advisor to the Administration and Council on pollution control and environmental matters.

(e) The Manager of Environmental Services is authorized to prepare, make, amend, revise or rescind and to promulgate, after consultation with the Commissioner of Field Operations, and approval of the Director of Public Utilities and Mayor, such rules and regulations as are necessary and proper to effectuate the purposes of the Toledo Environmental Services Code, provided that such rules and regulations are consistent with the Charter, the Municipal Code, and applicable state or federal environmental laws. The Manager is also authorized to designate testing methods when a particular method is not specified by this Code, from among standard or widely recognized

methods, including but not limited to, methods of the American Society for Testing and Materials, American Society of Mechanical Engineers, or authorities of the State or Federal Government.

(f) Rules and regulations and testing methods promulgated, amended, designated or rescinded in accord with subsection (e) of this section shall be effective thirty days after publication by the Manager of Environmental Services and the Director of Public Utilities in the Toledo City Journal; and copies thereof shall be provided for distribution to the public.

133.13. Sewer and Drainage Services Division.

A Sewer and Drainage Services Division in the Department of Public Utilities is established under the authority of the Director of Public Utilities and supervision the Commissioner of Field Operations. The Sewer and Drainage Services Division shall be responsible for the provision of sewer and drainage services and sewer system maintenance and operations.

133.14. Division of Water Distribution.

A Division of Water Distribution within the Department of Public Utilities is established under the authority of the Director of Public Utilities and the Commissioner of Field Operations. The Division of Water Distribution shall be responsible for the maintenance and repair of water mains and fire hydrants, the reading, repair, replacement and installation of water meters and overall operation of the water distribution system.

133.15. Director of Public Utilities authorized to collect fees.

The Director of Public Utilities is authorized to charge and collect the following fees for permits issued by the Department of Public Utilities in accordance with the ordinances of the City. This subsection is intended to supplement and not conflict with any provisions of Part Nine of the Municipal Code.

(a) The fee for a permit to lay a house sewer or to connect into any public sewer or drain shall be determined by the Director of Public Utilities

(b) The fee for a permit to repair existing sewer shall be determined by the Director of Public Utilities.

(c) The fee for a permit to plug an existing sewer connection into any public sewer or drain shall be determined by the Director of Public Utilities.

(d) The fee for a permit for the installation of a cleanout on an existing sewer connection shall be determined by the Director of Public Utilities.

(e) For the purposes of this section, normal working hours shall be eight hours per day, and five days per week (Monday through Friday, except holidays) for which the City shall furnish personnel and supervision for inspection. For any time worked in excess of the above hours or days, the contractor shall be charged for inspection and supervision at a rate predetermined by the Director of Public Utilities.

(f) The fee for any permit under this section shall not exceed the actual costs, including overhead, to the Department of Public Utilities. The Director shall determine any fees in accord with the City's process for adopting rules and regulations or alternatively by ordinance of Council.

133.16. Director of Public Utilities authority with regard to water and sewer connections.

The Director of Public Utilities shall have the authority to compel the making and repairing of sewer and water connections whenever they should in his judgment be constructed or repaired for the preservation of the public health and welfare. The Director shall cause written notice of his determination thereof to be given to the owner of each lot or parcel of land to which such

connections are to be made or repaired, which notice shall state the number and character of connections and repairs required. Such notice shall be served by a person, designated by the Director of Public Utilities, in the manner provided for the service of summons in civil actions; nonresidents, or persons who cannot be found may be served by the publication of such notice in a newspaper of general circulation in the City. The notice shall state the time within which such connections shall be constructed or repaired; and if they are not constructed or repaired within such time, the work may be done by the City and the cost thereof, together with a penalty of five percent and interest, assessed against the lots and lands for which such connections or repairs are made. Such assessments shall be certified and collected as other assessments for such improvements.

SECTION 3. That it is found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were passed in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

SECTION 4. That this Ordinance 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 necessary to align the DPU structure with current operations and effectively and timely engage in planning and implementation of programming to address important community needs.

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