



Legislation Text

File #: O-481-18, **Version:** 1

Keep the Jail Downtown Charter Amendment
Department of Law
D. Emch (x1020)

Providing for the submission to the electors of the City of Toledo at a special election on February 26, 2019, an amendment to the Charter of the City of Toledo for the purpose of adding a new Section to the Charter entitled “Keep the Jail in Downtown Toledo”; repealing Ordinance 427-18; and declaring an emergency.

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

SECTION 1. Whereas, the Clerk of Council has received the adequate number of petition signatures as required by law for the following proposed Charter amendment to be submitted to the electors of the City of Toledo and pursuant to the Charter and the Constitution of the State of Ohio, the Toledo City Council hereby presents the proposed amendment for consideration and for certification to the Board of Elections of Lucas County, Ohio.

SECTION 2. Whereas, Ordinance 427-18 passed by the Council of the City of Toledo on October 9, 2018 is superseded in its entirety as to both purpose and intent, and the same should be repealed.

SECTION 3. That the amendment to the Charter of the City of Toledo, as hereinafter set forth, be submitted to the electors of said City at a special election to be held on February 26, 2019, pursuant to Ohio law and the Charter of the City of Toledo.

SECTION 4. That the amendment reads as follows:

“KEEP THE JAIL IN DOWNTOWN TOLEDO

A LAW TO PROTECT THE INTEGRITY OF NEIGHBORHOODS IN TOLEDO BY REQUIRING ALL JAILS TO BE CONSTRUCTED WITHIN THE DOWNTOWN OVERLAY DISTRICT

Section 1 - Preamble

Whereas, this Ordinance recognizes and secures the civil and political rights of the people of the City of Toledo, pursuant to Article I, Section 20 of the Ohio Constitution, which states: “This enumeration of rights

shall not be construed to impair or deny others retained by the people, and all powers, not herein delegated, remain with the people;" and

Whereas, this Ordinance confines and limits the location of a new or renovated Jail, Correctional Facility, Prison, Justice Complex, Correctional Treatment Facility, Detention Center, Work Release or other building that houses criminals or the accused criminal to the Downtown Overlay District within the City of Toledo; and

Whereas, this Ordinance shall be known and may be cited as the "Keep the Jail in Downtown Toledo Ordinance," and

Whereas, this Ordinance is enacted in the interests of public morals, public recreations, amusements and entertainments, and to define, prohibit, abate or suppress all things detrimental to the health, morals, comfort, safety, convenience, and welfare of the people, and preservation of neighborhoods, and

Whereas, this Ordinance is enacted pursuant to the inherent right of the people of the City of Toledo to govern their own community and the Ohio Constitution's recognition that "All political power is inherent in the people."

NOW, THEREFORE, BE IT RESOLVED by the people of the City of Toledo that we electors hereby adopt the following Ordinance, which establishes and limits the location of any new or renovated jail or other correction facility to the Downtown Overlay District and allows for the enforcement of said Ordinance.

Section 2 - Statements of Law - A Requirement That All Jails Be Built Downtown

Any construction or placement of a new or renovated: Jail, Correctional Facility, Prison, Justice Complex, Correctional Treatment Facility, Detention Center, Work Release or other building that houses criminals or accused criminals, within the City of Toledo limits, will be located in and confined to the Downtown Overlay District, as defined in Chapter 1116, Appendix A of the Toledo Municipal Code, ("Downtown Overlay District"), which reads as follows:

"The boundaries of the land included and controlled by the Downtown Overlay District shall be as follows: Beginning at a point of intersection of the centerlines of Summit Street and Cherry Street, thence northwesterly along the centerline of Cherry Street to its intersection of the centerline of Woodruff Avenue; thence southwesterly and westerly along the centerline of Woodruff Avenue to the intersection of the centerline of North Twelfth Street; thence southerly along the centerline of North Twelfth Street to the centerline of Southard Avenue; thence westerly along the centerline of Southard Avenue, to the centerline of North Thirteenth Street; thence southerly along the centerline of North Thirteenth Street to the centerline of Jackson Street; thence westerly along the centerline of Jackson Street to the centerline of Fourteenth Street; thence southwesterly along the centerline of Fourteenth Street to the centerline of Washington Street; thence southeasterly along the centerline of Washington Street to the centerline of South Eleventh Street; thence south along the centerline of South Eleventh Street to a point of intersection of the easterly extension of the north line of Subdivision One of Lot 609, Port Lawrence Division; thence westerly along the easterly extension of, and the north line of Subdivision One of Lot 609 in Port Lawrence Division and continuing westerly along the north line of Lot 626, 650 and 666 and its westerly extension of the north line of Lot 666 all in Port Lawrence Division to its intersection of the centerline of South Thirteenth Street; thence south along the centerline of South Thirteenth Street; to the centerline of Avondale Avenue; thence easterly along the centerline of Avondale Avenue to a point of intersection of the centerline of Lafayette Street; thence southeasterly along the centerline of Lafayette Street and its southeasterly extension to the centerline of Relocated Swan Creek; thence northeasterly along the centerline of Relocated Swan Creek to a point of intersection of the southeasterly extension of the southwesterly right-of-way line of Jefferson Avenue; thence southeasterly along the southeasterly extension of the southwesterly right-of-way line of Jefferson Avenue to the center of the Maumee River; thence northeasterly along the center of the Maumee River to its intersection with the southeasterly extension of the

centerline of Walnut Street; thence northwesterly along the southeasterly extension of the centerline of Walnut Street and continuing northwesterly along the centerline of Walnut Street to the centerline of Summit Street; thence southwesterly along the centerline of Summit Street to the point of beginning.”



Section 3 - Statements of Law - Prohibitions Necessary to Secure the Bill of Rights

- (a) It shall be unlawful for any corporation or government to violate the rights recognized and secured by this law. “Corporation” shall include any business entity.
- (b) No permit, license, privilege, charter, or other authorization issued to a corporation, by any state or federal entity, that would violate the prohibitions of this law or any rights secured by this law, shall be deemed valid within the City of Toledo.

Section 4 - Enforcement

- (a) Any corporation or government that violates any provision of this law shall be guilty of an offense and, upon conviction thereof, shall be sentenced to pay the maximum fine allowable under State law for that violation. Each day or portion thereof, and violation of each section of this law, shall count as a separate violation.
- (b) The City of Toledo, or any resident of the City, may enforce the prohibitions of this law through an action brought in the Lucas County Court of Common Pleas, General Division. In such an action, the City of Toledo or the resident shall be entitled to recover all costs of litigation, including, without limitation, witness and attorney fees.
- (c) Governments and corporations engaged in activities that violate the prohibitions of this law, in or from any jurisdiction, shall be strictly liable for all harms and rights violations resulting from those activities.

Section 5 - Enforcement - Corporate Powers

(a) Corporations that violate this law, or that seek to violate this law, shall not be deemed to be “persons” to the extent that such treatment would interfere with the rights or prohibitions enumerated by this law, nor shall they possess any other legal rights, powers, privileges, immunities, or duties that would interfere with the rights or prohibitions enumerated by this law, including the power to assert state or federal preemptive laws in an attempt to overturn this law, or the power to assert that the people of the City of Toledo lack the authority to adopt this law.

(b) All laws adopted by the legislature of the State of Ohio, and rules adopted by any State agency, shall be the law of the City of Toledo only to the extent that they do not violate the rights or prohibitions of this law.

Section 6 - Effective Date and Existing Permit Holders

This law shall be effective immediately on the date of its enactment, at which point the law shall apply to any and all actions that would violate this law regardless of the date of any applicable local, state, or federal permit.

Section 7 - Severability

The provisions of this law are severable. If any court decides that any section, clause, sentence, part, or provision of this law is illegal, invalid, or unconstitutional, such decision shall not affect, impair, or invalidate any of the remaining sections, clauses, sentences, parts, or provisions of the law. This law would have been enacted without the invalid sections.

Section 8 - Repealer

All inconsistent provisions of prior laws adopted by the City of Toledo are hereby repealed, but only to the extent necessary to remedy the inconsistency.”

SECTION 5. That the foregoing amendment shall take effect immediately upon approval by the electors of the foregoing amendment and in accordance with provisions in the said amendment. The Clerk of Council is hereby ordered and directed to provide a copy hereof to the Ohio Secretary of State, within thirty (30) days after such vote of approval by the electors.

SECTION 6. The Clerk of Council is hereby ordered and directed to certify to the Board of Elections of Lucas County, Ohio, the enactment of this Ordinance for the submission of the aforesaid amendment at an election to be held at the time hereinabove mentioned, and the Clerk is directed to request the said Board of Elections to provide for the submission of the question of adopting the said amendment at the said election. The Clerk of Council is further ordered and directed to cause the publication of the full text of the proposed charter amendment once a week for not less than two (2) consecutive weeks in a newspaper published in the City of Toledo, with the first publication thereof being at least fifteen (15) days prior to the election at which the amendment is to be submitted to the electors.

SECTION 7. It is hereby found and determined that all formal actions of this Council concerning and relating to the Adoption of this Ordinance were taken 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 for open meetings, including section 121.22, Ohio Revised Code.

SECTION 8. That Ordinance 427-18 is hereby repealed.

SECTION 9. That this Ordinance hereby is declared to be an emergency measure and shall be in force and effect from and after its adoption. 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 the Ordinance must be immediately effective in order to permit the question of the aforesaid Charter amendment to be submitted at the next available election pursuant to Ohio law; wherefore this Ordinance shall be in force and effect immediately upon its adoption.

Vote on emergency clause: yeas 11, nays 0.

Passed: November 13, 2018, as an emergency measure: yeas 11, nays 0.

Attest:

Gerald E. Dendinger
Clerk of Council

Matt Cherry
President of Council

Approved:

November 14, 2018
Wade Kapszukiewicz
Mayor