



Legislation Text

File #: O-510-21, **Version:** 1

Zoning & Planning Committee

Amending Toledo Municipal Code (TMC), Part Eleven, Replacing “One Stop Shop, Building Inspection, and Code Enforcement” with “Division of Building Inspection” and replacing “Commissioner of Building Inspection and Code Enforcement” with “Commissioner of Building Inspection”; and declaring an emergency.

SUMMARY & BACKGROUND:

The request is a text amendment to modify various sections of the Toledo Municipal Code (TMC) Chapter 11 to reflect the current structure and implementation of the TMC Chapter 11 Rules and Regulations. Three (3) City of Toledo offices are responsible for enforcing and carrying out the Zoning Code, and the Code itself needs to reflect which office is assigned the responsibilities of the Zoning Code. Clarifying the correct agency will provide accurate information for citizens and less confusion for management.

Over the past few decades, the responsibilities of the Plan Commission, Division of Building Inspections, and Division of Code Enforcement staff have evolved as more efficient operating procedures have been implemented. Previously, “One Stop Shop” was the name given to staff from the Division of Building Inspections and the Division of Code Enforcement who worked with citizens on their requests. It was found that this overlap caused confusion for applicants and staff rather than efficiency, and the “One Stop Shop” is no longer used. Also, Plan Commission staff now take in applications and requests that once were taken in by the “One Stop Shop” or Division of Building Inspections.

Another correction to be made in Chapter 11 of the TMC is clarifying which department head is responsible for interpretations, administrative decisions, and enforcement. At one time the Commissioner of Building Inspection and the Commissioner of Code Enforcement were proposed to be the same position, which is no longer applicable. The two (2) positions are separate with distinct responsibilities. Chapter 11 of the TMC should reflect these structural changes to help citizens with identifying which department is responsible for which decisions.

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

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

CHAPTER 1101 INTRODUCTORY PROVISIONS

1101.0900 Official Zoning Map

1101.0902 Location

The Official Zoning Map is filed in the office of the Clerk of the Council. In case of any dispute regarding the zoning classification of property subject to this Zoning Code, the maps maintained by the Clerk of the Council will govern. Administrative copies of the Official Zoning Map must also be on file in the office of the Division of Building Inspection and Code Enforcement and the office of the Plan Commission.

CHAPTER 1103 OVERLAY ZONING DISTRICTS

1103.1000 -PUD, Planned Unit Development Overlay District

1103.1012 Successive Applications

When the City Council denies a Planned Unit Development application or the applicant withdraws an application after the first public hearing notice has been published in the newspaper, the One Stop Shop staff of the Division of Building Inspection and Code Enforcement may not accept and the Plan Commission staff may not process another application for the same or similar use affecting the same property or a portion of it until the expiration of a 1-year period, extending from the date of denial by the City Council or withdrawal by the applicant.

CHAPTER 1104 USE REGULATIONS

1104.1400 Marinas

1104.1409 Additional Approvals

Additional applications and reviews may be necessary as a part of the City permit process. Specifically, the Department of Public Services, Division of Streets, Bridges, and Harbor, the Department of Fire and Rescue Operations and the Division of Building Inspection and Code Enforcement.

CHAPTER 1105 ACCESSORY USES

1105.0400 Home Occupations

1105.0405 Use-Related Regulations

B. Prohibited Regulations

7. The Commissioner of Building Inspection and Code Enforcement is authorized to classify uses not listed above as a prohibited home occupation if the use closely fits into one of the above prohibited use types or descriptions.

1105.0410 General Home Occupation Permit

A. Purpose

Permits for General home occupations must be obtained from the Commissioner of Building Inspection and Code Enforcement prior to their establishment. The permit requirements are intended to ensure:

B. Procedure

A home occupation permit for General home occupations will be issued by the Commissioner of Building Inspection and Code Enforcement for a 2-year period. It is the responsibility of the applicant to obtain the permit every 2 years. The review process requires the applicant to submit an affidavit pledging agreement with these conditions and documentation that the proposal is a General home occupation. The permit is tied to the applicant and not to the lot occupied by the home occupation; permits are not transferable to other sites or other operators.

1105.0500 Liquid Petroleum Gas Storage in Residential Districts

1105.0502 Installations must conform to:

- B. regulation promulgated by the Fire Prevention Bureau and the Division of Building Inspection and Code Enforcement relative to the storage, handling and installation of equipment for liquefied petroleum gases.

1105.0700 Satellite Dishes and Antennas

1105.0702 Satellite Dishes Less than One Meter and TV/Radio Antennas

- B. In Residential districts such dishes and antennas shall be located only on a roof or in rear or side yards unless such restriction precludes reception of an acceptable quality signal. In such case such dish or antenna may be placed anywhere on the lot except within an easement of record. Proof of inability to receive an acceptable quality signal shall be provided to the One Stop Shop, Division of Building Inspection and Code Enforcement, upon request.

1105.1000 Temporary Uses

1105.1001 Contractor's Office and Construction Equipment Sheds

Contractor's offices and construction equipment sheds are allowed in any zoning district when accessory to an allowed construction project.

- A. Contractor's offices and construction equipment sheds must be located on the same site as the construction project unless approved by the Commissioner of Building Inspection and Code Enforcement.

CHAPTER 1108 LANDSCAPING AND SCREENING

1108.0100 General

1108.0104 Building Permits and Certificates of Use and Occupancy

B. Certificates of Use and Occupancy

1. If landscape and screening has not been installed in compliance with the applicable standards of this Chapter within 180 days, the Commissioner of Building Inspection and Code Enforcement shall authorize use of the funds or financial security to acquire and install required landscaping and screening.

1108.0400 Landscape Material Standards

1108.0408 Protection During Construction

If trees or shrubs are to be credited towards landscaping requirements they must be protected during all phases of construction as follows:

- G. For projects not requiring a site grading plan, the required barriers must be constructed by the property owner and approved by the Commissioner of Building Inspection and Code Enforcement prior to issuance of a building permit.

CHAPTER 1110 FLOOD CONTROL REGULATIONS

1110.0200 Definitions

1110.0247 "Substantial Improvement"

- B. Any project for improvement of a Structure to correct existing Violations of state or local health, sanitary, or safety code specifications which have been identified prior to the application for a Development permit by the local code enforcement official and which are the minimum necessary to assure safe living conditions;

CHAPTER 1111 DEVELOPMENT APPROVAL PROCEDURES

1111.0100 General

1111.0103 Form of Application

Applications required under the Zoning Code must be submitted in a form and in such numbers as required by the Division of Building Inspection and Code Enforcement. Application forms and checklists of required submittal information shall be available in the One Stop Shop, Division of Building Inspection and Code

Enforcement.

1111.0105 Application Filing Fees

Applications must be accompanied by the fee amount that has been established by the City Council and available at the One Stop Shop, Division of Building Inspection and Code Enforcement. Fees are not required with applications initiated by review or decision-making bodies. Any fee refund is solely at the discretion of the Commissioner of Building Inspection and Code Enforcement.

1111.0400 Summary of Procedures

Below table

Decision Making Bodies

HDC = Historic District Commission

PC = Plan Commission

BZA = Board of Zoning Appeals

CC = City Council

Staff = Plan Commission or the Div. of Building Inspection and Code Enforcement

1111.0600 Zoning Map Amendments (Rezoning)

1111.0601 Application Filing

Applications must be filed with the One Stop Shop, Division of Building Inspection and Code Enforcement.

1111.0608 Successive Applications

When the City Council denies a zoning map amendment application or the applicant withdraws an application after the first public hearing notice has been published in the newspaper, the One Stop Shop staff of the Division of Building Inspection and Code Enforcement may not accept and the Plan Commission staff may not process another application for the same or similar amendment affecting the same property or a portion of it until the expiration of a 1-year period, extending from the date of denial by the City Council or withdrawal by the applicant.

1111.0700 Special Uses

1111.0701 Application Filing

Applications and a site plan of the proposed special use must be filed with the One Stop Shop, Division of Building Inspection and Code Enforcement.

1111.0709 Successive Applications

When the City Council denies a special use application or the applicant withdraws an application after the first public hearing notice has been published in the newspaper, the One Stop Shop staff of the Division of Building Inspection and Code Enforcement may not accept and the Plan Commission staff may not process another application for the same or similar special use affecting the same property or a portion of it until the expiration of a 1-year period, extending from the date of denial by the City Council or withdrawal by the applicant.

1111.0800 Site Plan Review

1111.0804 Initiation and Application Filing

Site Plan Review applications must be filed with the One Stop Shop, Division of Building Inspection and Code Enforcement.

1111.1000 Historic Districts and Landmarks (Designation or Expansion)

1111.1005 Notification of Designation

Upon designation, the Clerk of the City Council must promptly notify the Commissioner of Building Inspection and Code Enforcement, the Planning Director and the City Law Director.

1111.1100 Certificates of Appropriateness

1111.1102 Exemptions

- B.** Nothing in this Section will prevent authorized municipal officers from abating public nuisances as defined in Title 17, Health Code, Secs. 1726.01 and 1726.02.

Whenever the Commissioner of the Division of Building Inspection and of Code Enforcement receives a public nuisance complaint involving a landmarked structure or structure within a historic district, the Commissioner must notify the Planning Director within two working days after receipt of such nuisance complaint.

1111.1107 Initial Hearing Procedures

- A.** A public hearing on an application for a Certificate of Appropriateness must be conducted at the next regularly scheduled Historic District Commission meeting, no later than 45 days after the filing of the application. The Historic District Commission chairperson may call special meetings with the applicant for consultation at his or her own discretion or at the request of the Commissioner of the Division of Building Inspection Code Enforcement prior to the regularly scheduled Historic District Commission meeting.

- G.** Building permit applications to the Division of Inspection and Code Enforcement for construction or rehabilitation work within a designated historic district shall not be accepted or approved unless three of four complete sets of building plans, where required in Section 1305.04 of the Building Code, detailing the proposed construction or rehabilitation work bear the official endorsement stamp of the respective Historic District Commission on each and every page, signed by the chairperson thereof or their duly authorized designee and a Certificate of Appropriateness is issued with the three sets of plans. The fourth set of stamped plans shall remain in the office of the Plan Commission.

- I.** In the event that the owner, contractor, subcontractor, or other person to whom a Certificate of Appropriateness has been issued either violates the terms or conditions thereof or deviates from the approved plans, designs, elevations, and specifications therein, then the Commissioner of Building Inspection and Code Enforcement may revoke such Certificate and further deny issuance of the building, use and occupancy and/or demolition permit for such Certificate. In no event may the Commissioner of Building Inspection and Code Enforcement approve retroactively any amendment to a Certificate of Appropriateness.

1111.1300 Institutional Master Plan

1111.1302 Application Filing

Applications for Institutional Master Plan approval must be filed with the One Stop Shop, Division of Building Inspection and Code Enforcement.

1111.1600 Certificates of Use and Occupancy

1111.1601 Certificate Required

No building hereafter erected or structurally altered shall be occupied or used, until a Certificate of Use and Occupancy has been issued by the Commissioner of Building Inspection and Code Enforcement.

1111.1603 Plans

All applications for building permits or Certificates of Use and Occupancy shall be accompanied by three sets drawn to scale, showing the actual dimensions of the lot to be built upon, the size of the building to be erected, legal description, and such other information as may be necessary to provide for the enforcement of this Zoning Code.

- A.** A careful record of such applications and plans shall be kept in the office of the Division of Building Inspection and Code Enforcement.

1111.1604 Contents of Certificate

The Certificate of Use and Occupancy shall state that the building, or proposed use of a building or land, complies with all the building and health laws and ordinances and with the provisions of this Zoning Code.

- A. A record of all certificates shall be kept on file in the office of the Division of Building Inspection and Code Enforcement.

1111.1700 Variances

1111.1702 Application Filing

Applications for zoning variances must be submitted to the One Stop Shop, Division of Building Inspection and Code Enforcement.

1111.1708 Notice of Decision

Within 10 days after a final zoning variance decision is made by the Board of Zoning Appeals, copies of the written decision must be sent to the applicant and filed with the Division of Building Inspection and Code Enforcement, where it will be available for public inspection during regular office hours.

1111.1710 Optional Administrative Procedure

- A. Any person seeking a variance has the option of having the variance reviewed by the Commissioner of Building Inspection and Code Enforcement in lieu of a formal Board of Zoning Appeals' hearing. This administrative review must be conducted in accordance with rules and procedures adopted by the Board of Zoning Appeals.
- B. The rules and procedures adopted by the Board of Zoning Appeals for the administrative review procedure must include provisions for appropriate public notification and input, including the following:
 - 2. A formal Board of Zoning Appeals hearing must be held in all cases where an affected property owner files an objection to the Commissioner of Building Inspection and Code Enforcement's decision.
- C. Any person who elects to have their case reviewed by this administrative review procedure, may, after receipt of the decision of the Commissioner of Building Inspection and Code Enforcement, appeal the decision to the Board of Zoning Appeals for a formal hearing. This hearing must be conducted at the next regularly scheduled meeting of the Board of Zoning Appeals, unless the next meeting occurs 7 days or less after receipt of the appeal of the Commissioner's decision, in which case the appeal will be heard at the second next scheduled meeting of the Board of Zoning Appeals.
- D. The Commissioner of Building Inspection and Code Enforcement, in exercising the rules and procedures of this administrative review procedure, has the same power as the Board of Zoning Appeals to grant variances.
- E. This administrative review procedure does not apply to appeals of orders issued by the Commissioner of Building Inspection and Code Enforcement concerning violations or enforcement of this Zoning Code. Those appeals are subject to a full Board of Zoning Appeals hearing.

1111.1800 Exceptions

1111.1802 Application Filing

Applications for zoning exceptions must be submitted to the One Stop Shop, Division of Building Inspection.

1111.1900 Written Interpretations

1111.1901 Application Filing

- A. Any person may apply to the Commissioner of Building Inspection and Code Enforcement for a written interpretation of this Zoning Code.

1111.1902 Additional Information

The person applying for an interpretation shall provide such additional information as the Commissioner of

Building Inspection and Code Enforcement requests as necessary for a proper determination. The Commissioner may refuse to issue a written application if the person fails to provide the additional information.

1111.1903 Review and Decision

After receiving a complete application for a written interpretation, the Commissioner of Building Inspection and Code Enforcement must:

- A. review and evaluate the application in light of this Zoning Code, the Comprehensive Plan, and any other relevant documents;
- B. consult with the Planning Director, Law Director and other staff as necessary; and
- C. render a written interpretation.

1111.1905 Official Record of Interpretations

An official record of interpretations is kept on file in the Division of Building Inspection and Code Enforcement. The record of interpretations is available for public inspection during normal business hours.

1111.1906 Appeals

Appeals of the Commissioner of Building Inspection and Code Enforcement's written interpretation may be taken by the applicant to the Zoning Board of Appeals in accordance with procedures of Sec. 1111.2000. If the appeal results in a change of interpretation, the new interpretation must be filed in the official record of interpretations.

1111.2000 Appeals of Administrative Decisions

1111.2001 Authority and Applicability

The Board of Zoning Appeals is authorized to hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by the Commissioner of Building Inspection and Code Enforcement or the Planning Director in the administration or enforcement of the provisions of this Zoning Code.

1111.2002 "Commissioner"

For purposes of this Section, "Commissioner" means the Commissioner of Building Inspection and Code Enforcement or the Planning Director, whichever an appeal is being taken from in the particular case at hand.

1111.2003 Application Filing

Appeals of administrative decisions must be submitted to the One Stop Shop, Division of Building Inspection and Code Enforcement. Unless otherwise expressly stated, appeals of administrative decisions must be filed within 20 days of the date that notice of the Commissioner's decision is given to the applicant.

CHAPTER 1112 REVIEW AND DECISION-MAKING BODIES

1112.0200 Board of Zoning Appeals

1112.0204 Officers

The Board of Zoning Appeals shall elect one of its members as chairperson and the Commissioner of Building Inspection and Code Enforcement or his or her designee shall serve as secretary to the Board of Zoning Appeals.

1112.0208 Powers and Duties

The Board of Zoning Appeals shall have the following powers and duties:

- A. Appeals of Commissioner of Building Inspection and Code Enforcement Decisions
 1. To hear and decide appeals of the decisions of the Commissioner of Building Inspection and Code Enforcement concerning the enforcement of the provisions of this Zoning Code in accordance with the procedures of Sec. 1111.2000.
 2. To hear and decide appeals of the decisions of the Commissioner of Building Inspection and

Code Enforcement concerning the provisions of Part 13 - Title 9 - Sign Code in accordance with the provisions of Sec. 1111.2000.

CHAPTER 1114 NONCONFORMITIES

1114.0100 General

1114.0107 Certificate of Zoning Compliance

For existing nonconformities, landowners may request and obtain a Certificate of Zoning Compliance from the Commissioner of Building Inspection and Code Enforcement.

- A. Subject to verification procedures established by the Commissioner of Building Inspection and Code Enforcement, nonconformities documented in a Certificate of Zoning Compliance shall be deemed to be legal nonconformities to the extent documented in the Certificate.
- B. A record of all Certificates of Zoning Compliance shall be kept on file in the office of the Division of Building Inspection and Code Enforcement.

CHAPTER 1115 VIOLATIONS, PENALTIES AND ENFORCEMENT

1115.0900 Determination of Status as Household

1115.0904 Factors

The determination of whether a group of unrelated persons living together are the functional equivalent of a family shall be based on such of the following factors as may be known to the Commissioner of Building Inspection and Code Enforcement. The presence or absence of any single factor is not necessarily determinative of whether the unit constitutes a family:

CHAPTER 1116 TERMINOLOGY

1116.0100 General Terms

1116.0138 Grade

Any wall approximately parallel to and not more than 5 feet from a right-of-way is to be considered as adjoining the street or place. Where no sidewalk exists or where none of the walls adjoin a right-of-way, the grade shall be established by the Commissioner of Building Inspection and Code Enforcement or by the Division of Transportation.

1116.0141 Household

In determining whether a group of unrelated persons is a household under the definition set forth above, the Commissioner of Building Inspection and Code Enforcement shall apply the factors set forth in Sec. 1115.0900 or such of those factors as may reasonably be known to the Commissioner on the date of determination.

Be amended to read as follows:

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1101.0902 Location

The Official Zoning Map is located on the City of Toledo's official website on the Plan Commission webpage. In case of any dispute regarding the zoning classification of property subject to this Zoning Code, the maps maintained by the Plan Commission will govern. Administrative copies of the Official Zoning Map must also be on file in the office of the Plan Commission.

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- G. Building permit applications to the Division of Inspection for construction or rehabilitation work within a designated historic district shall not be accepted or approved unless three of four complete sets of building plans, where required in Section 1305.04 of the Building Code, detailing the proposed construction or rehabilitation work bear the official endorsement stamp of the respective Historic District Commission on each and every page, signed by the chairperson thereof or their duly authorized designee and a Certificate of Appropriateness is issued with the three sets of plans. The fourth set of stamped plans shall remain in the office of the Plan Commission.
- I. In the event that the owner, contractor, subcontractor, or other person to whom a Certificate of Appropriateness has been issued either violates the terms or conditions thereof or deviates from the approved plans, designs, elevations, and specifications therein, then the Commissioner of Building Inspection may revoke such Certificate and further deny issuance of the building, use and occupancy and/or demolition permit for such Certificate. In no event may the Commissioner of Building Inspection approve retroactively any amendment to a Certificate of Appropriateness.

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- A. A record of all certificates shall be kept on file in the office of the Division of Building Inspection.

1111.1700 Variances

1111.1702 Application Filing

Applications for zoning variances must be submitted to the Division of Building Inspection.

1111.1708 Notice of Decision

Within 10 days after a final zoning variance decision is made by the Board of Zoning Appeals, copies of the

written decision must be sent to the applicant and filed with the Division of Building Inspection, where it will be available for public inspection during regular office hours.

1111.1710 Optional Administrative Procedure

- A. Any person seeking a variance has the option of having the variance reviewed by the Commissioner of Building Inspection in lieu of a formal Board of Zoning Appeals' hearing. This administrative review must be conducted in accordance with rules and procedures adopted by the Board of Zoning Appeals.
- B. The rules and procedures adopted by the Board of Zoning Appeals for the administrative review procedure must include provisions for appropriate public notification and input, including the following:
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- C. Any person who elects to have their case reviewed by this administrative review procedure, may, after receipt of the decision of the Commissioner of Building Inspection, appeal the decision to the Board of Zoning Appeals for a formal hearing. This hearing must be conducted at the next regularly scheduled meeting of the Board of Zoning Appeals, unless the next meeting occurs 7 days or less after receipt of the appeal of the Commissioner's decision, in which case the appeal will be heard at the second next scheduled meeting of the Board of Zoning Appeals.
- D. The Commissioner of Building Inspection, in exercising the rules and procedures of this administrative review procedure, has the same power as the Board of Zoning Appeals to grant variances.
- E. This administrative review procedure does not apply to appeals of orders issued by the Commissioner of Building Inspection concerning violations or enforcement of this Zoning Code. Those appeals are subject to a full Board of Zoning Appeals hearing.

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1111.1903 Review and Decision

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- A. review and evaluate the application in light of this Zoning Code, the Comprehensive Plan, and any other relevant documents;
- B. consult with the Planning Director, Law Director and other staff as necessary; and
- C. render a written interpretation.

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The Board of Zoning Appeals shall have the following powers and duties:

A. Appeals of Commissioner of Building Inspection Decisions

1. To hear and decide appeals of the decisions of the Commissioner of Building Inspection concerning the enforcement of the provisions of this Zoning Code in accordance with the procedures of Sec. 1111.2000.
2. To hear and decide appeals of the decisions of the Commissioner of Building Inspection concerning the provisions of Part 13 - Title 9 - Sign Code in accordance with the provisions of Sec. 1111.2000.

CHAPTER 1114 NONCONFORMITIES

1114.0100 General

1114.0107 Certificate of Zoning Compliance

For existing nonconformities, landowners may request and obtain a Certificate of Zoning Compliance from the Commissioner of Building Inspection.

- A. Subject to verification procedures established by the Commissioner of Building Inspection, nonconformities documented in a Certificate of Zoning Compliance shall be deemed to be legal nonconformities to the extent documented in the Certificate.
- B. A record of all Certificates of Zoning Compliance shall be kept on file in the office of the Division of Building Inspection.

CHAPTER 1115 VIOLATIONS, PENALTIES AND ENFORCEMENT

1115.0900 Determination of Status as Household

1115.0904 Factors

The determination of whether a group of unrelated persons living together are the functional equivalent of a family shall be based on such of the following factors as may be known to the Commissioner of Building

Inspection and/or the Commissioner of Code Enforcement. The presence or absence of any single factor is not necessarily determinative of whether the unit constitutes a family:

CHAPTER 1116 TERMINOLOGY

1116.0100 General Terms

1116.0138 Grade

Any wall approximately parallel to and not more than 5 feet from a right-of-way is to be considered as adjoining the street or place. Where no sidewalk exists or where none of the walls adjoin a right-of-way, the grade shall be established by the Commissioner of Building Inspection or by the Division of Transportation.

1116.0141 Household

In determining whether a group of unrelated persons is a household under the definition set forth above, the Commissioner of Building Inspection and/or the Commissioner of Code Enforcement shall apply the factors set forth in Sec. 1115.0900 or such of those factors as may reasonably be known to the Commissioner on the date of determination.

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 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 12, nays 0.

Passed: September 28, 2021, as an emergency measure: yeas 12, nays 0.

Attest:

Gerald E. Dendinger
Clerk of Council

Matt Cherry
President of Council

Approved:

September 28, 2021
Wade Kapszukiewicz
Mayor