

# Billboard code revision runs up against industry objections

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Employees of Lamar Advertising, including Greg Churilla, vice president and general manager, third from left, pose near one of the company's billboards on Washington Street across from Fifth Third Field.

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They're everywhere — tall, bright, calling attention to themselves, telling us things we may or may not care about.

Billboards. Toledo has 508 of them.

Now a proposed city law revision aims to stop the expansion of billboards and — according to the sign industry — stamp the existing billboards out of existence.

Whether billboards constitute a blight on the environment or play a worthwhile part in a busy urban setting has surfaced in a sign code revision quietly making its way through to a vote on Toledo City Council.

According to the Toledo-Lucas County Plan Commission's staff, the sign code rewrite is long overdue. The staff report says the city sign code has become encrusted with contradictory rules, complicated formulas, confusion about free-speech issues, and enforcement by different city agencies.

It suggests billboards harm Toledo's economic competitiveness, and advocates of more stringent rules point to the paucity of tall signs permitted in Toledo's suburbs.

“The sign code allows for large signs that obstruct views of Toledo’s architecture and natural landscape. The proliferation of billboards has negative effects on the appearance of Toledo and our ability to market as a unique destination for investment,” the staff report asserts.

Toledo’s billboard operators say there’s no reason to believe that the removal of tall and free-standing commercial signage will bring new jobs and quality of life to Toledo, but it will put a successful industry out of work.

“This is going to destroy our business. It’s going to cost jobs. Its purpose is to outlaw all billboards without paying just compensation,” said Greg Churilla, vice president and general manager of Lamar Advertising, during testimony to the plan commission.

The code revision has been in the works by plan commission staff for about a year, with participation from other city offices, including the law department, transportation, building inspection, and City Council. Draft plans were shared with sign contractors and others in September and October and it was reviewed by the plan commission in its regular meeting of Nov. 4.

After the hearing, the plan commission recommended the sign code revision to city council by a 4-0 vote, with one member abstaining. The plan commission plans to hire two new signs inspectors in January to enforce the new sign code.

The code rewrite would be considered by Toledo City Council’s planning and zoning committee on Dec. 8. If approved there, it would go to the full council for a final vote.

Under the simplified code, new signs on pylons or poles would be prohibited, and all existing such signs would be grandfathered as legal, nonconforming uses.

All new signs would have to be monument-style, typically meaning a square or rectangular structure, and much lower to the ground. The current sign code allows on-premises signs to be 300 square feet and off-premises signs, or billboards, 400 square feet. The new code would limit a sign’s message area to 120 square feet. Only one ground sign would be allowed per parcel per each street frontage.

The new proposed code says it grandfathers in all existing signs. But outdoor advertisers say they need the flexibility to replace signs that are taken down, as when a landowner decides to do something different with their parcel. And they say the new rules will make it difficult or even impossible to do the simple repairs and updates constantly needed on existing billboards.

According to Mr. Churilla, existing signs will deteriorate because they can’t be maintained and will have to be removed. The plan commission disputes that claim, saying that repairs and updates can be made, as long as the sign is not changed structurally or enlarged.

“We do not want to litigate against Toledo or in any way be at odds, but this draft will give us no choice but to protect our property and business which it seeks to destroy,” Mr. Churilla said.

“This is designed to pit our landowners and billboard companies against each other. They are telling us that every sign has to look like a monument sign, which is not going to work in our industry. We’d like to move forward and have discussions about having a sign code that is similar to [what exists] today,” Mr. Churilla said.

Lamar has about 200 sign structures — some of which have more than one display face. A full-service company, Lamar sells advertising space and constructs and maintains all of its billboards, with a crew of 19.

The current code has different rules for on-premises and off-premises signs, a distinction that the Supreme Court case has found unconstitutional in other states, according to the plan commission staff.

According to city planner Matthew Lascheid, who did much of the work drafting the revision, the Supreme Court has ruled that cities may not have different regulations for signs based on whether they are off-premises or on-premises.

The code has been amended so many times that conflicting policies have crept in. The code bans “flags” and “temporary signs” in one section and allows them in another section.

The plan commission’s staff report blasts the impact of billboards on Toledo’s streetscape, saying some are “unnecessarily large and bright, creating nuisance conditions for residents and the traveling public.”

It says that large signs obstruct Toledo’s architecture, often with mass-produced images that “further diminish our ability to stand out as a one-of-a-kind location.”

As support for its claim that billboards tarnish Toledo’s appearance, the plan commission cited a study of billboards in Philadelphia that showed a drop in value of \$36,826 for homes within 500 feet of a billboard. A study of 20 mid-sized cities found that stricter sign codes correlated with lower poverty rates, lower home vacancy rates, and higher median incomes.

The sign code revision is being cheered on by Stephen Serchuk, a commercial real estate investor with years of experience as a former Toledo city planner and as a former member of the plan commission, and current chairman of the city Administrative Board of Zoning Appeals.

He said there was an unsuccessful attempt 20 years ago to ban billboards and the effort was blocked by the sign industry, though size restrictions were implemented, distances between signs were increased, and new billboards were prohibited downtown.

“The delay tactic is what they used 20 years ago and that’s what they’re trying to do today. If council passes it we can always amend it,” Mr. Serchuk said.

“There are not a lot of signs in the suburbs. I want our community to compete well and I think the new sign code does that,” he said.

Spokesmen for the outdoor sign industry dispute that billboards are a blight on the community. They say they perform a valuable service, and also are often used to communicate important news, alerts, and public service notices.

Matthew Kemp, a lawyer with Shumaker, Loop & Kendrick, representing TDO Advertising, which is owned by Block Communications Inc., owner of The Blade, questioned the legal validity of the sign code revision.

“There is a long line of Ohio cases holding that purely aesthetic concerns by themselves are not a sufficient basis for a municipality to establish a zoning ordinance. If aesthetics is all you’re going on, that is problematic legally,” Mr. Kemp said.

He also questioned the plan commission’s claim that they sought input from the business community.

“The folks we talked to had little knowledge of it. I’m not convinced there’s been significant engagement with the greater business community,” Mr. Kemp said.

“There may be areas where aesthetics are legitimate and truly significant. Whether a billboard is going to have an aesthetic effect can and should be decided on a case by case basis,” he said.

He added that the billboard ban will also affect the businesses that use them to advertise.

Lafe Schneider, president of TDO, said, “many of the assumptions underlying the revisions are questionable.”

He said Vermont and Maine banned billboards almost 30 years ago and “tourism in those states performs subpar compared nationally,” and he said that “various surveys reveal tourists believe billboards are useful.”

TDO has 33 sign structures, including eight digital signs. The company would like to replace some of its vinyl signs with digital signs because they accommodate more advertisers — eight at a time with rotating visibility of 8 seconds each.

The plan commission report says some other cities have already gone where the proposed plan wants to go. Dayton limits signs to monument-style signs up to 8 feet high. Cincinnati limits ground signs to 15 feet, depending on the zoning district. Cleveland and Columbus have not recently updated their sign codes and standards are still similar to Toledo’s existing sign code, the staff report says, while new billboards are prohibited in Perrysburg, Oregon, and Maumee. The tallest ground sign allowed under Toledo’s proposed revision is 16 feet, and that is only in shopping centers.

The Supreme Court’s involvement in sign design stems in part from a case called *Reed vs. Town of Gilbert*. In that 2015 ruling and in others, the court said that municipalities cannot differentiate between speakers or content in how they regulate signs.

“This creates size-based injustices for Toledo business owners and local sign contractors because their signs are not permitted to be as large as billboards, with the key difference being the owner of the sign,” the plan commission report said.

Mr. Lamar disputed claims that the code rewrite is mandated by the U.S. Supreme Court.

“There is no rational basis for the law, or saying that all signs have to be treated the same. The draft ordinance violates Lamar’s and the public’s First Amendment rights to free speech, including commercial, political, religious, and commercial free speech,” he said.