
CHAPTER 7

ZONING

AUTHORITY

Zoning resolutions regulating the use of land and the size, structure, location, and usage of buildings and other physical structures may be passed by the legislative authority of a county, township, and municipality. The authority of a political subdivision to zone is derived from its police power and ability to legislate for the public health, safety, and welfare of its people and is vested in its legislative authority. Zoning procedures are set forth in Chapters 303 (County Zoning), 519 (Township Zoning) and 713 (Municipal Zoning) of the Revised Code. Because the procedures for county and township zoning are similar in language and effect, they are covered together in the sections immediately below. For procedures for municipal zoning, please see Municipal Zoning on page 4 of this chapter.

COUNTY AND TOWNSHIP ZONING

Resolution and zoning commission

In order to exercise the power to zone, the appropriate legislative authority (county commissioners or township trustees) must pass a resolution expressing its intention to proceed with zoning. The legislative authority may do so either upon its own initiative or upon presentation of a petition signed by a number of qualified electors of the area to be regulated that is equal to or greater than 8 percent of the total vote for governor in such area at the last gubernatorial election (R.C. 303.03, 519.03).

Once a resolution to proceed with zoning has been adopted, the legislative authority of the county or township must establish a zoning commission. The commission is comprised of five members who are residents of the unincorporated area to be zoned (R.C. 303.04, 519.04).

The zoning commission must prepare and submit to the legislative authority a comprehensive plan, including text and maps, for zoning the unincorporated area (R.C. 303.05, 519.05).

Submission of Zoning Plans to Electors

Once the legislative authority adopts a comprehensive zoning resolution, it must submit the resolution to the voters at the next primary or general election or at a special election called for that purpose. No zoning resolution is effective until approved by a majority of those voting on the issue (R.C. 303.11, 519.11).

A. Filing deadline

The legislative authority must submit the zoning resolution to the board of elections not later than 4 p.m. of the 90th day before the date of the election (R.C. 303.11, 519.11).

B. Ballot

The ballot upon which the question of the zoning resolution is to be submitted to the voters need not contain the full text of the resolution. A condensed version of the text is permissible; however, the full text of the resolution and the percentage of affirmative votes necessary for passage must be posted in an easily accessible place in the polling location (R.C. 3505.06(E)).

C. Notice

The board of elections must publish notice of the election at least 10 days before the election is held. Notice may be given by proclamation (posting in a conspicuous place in the court house and city hall) or by insertion in a newspaper published in the county. If no newspaper is published in the county, notice may be given by insertion in a newspaper of general circulation within the county (R.C.3501.03).

D. Results

If a majority of those voting on the zoning resolution vote “yes,” the resolution passes. A tie vote results in the resolution being defeated (R.C. 303.11, 519.11).

REFERENDUMS

An amendment to an existing zoning regulation may be challenged by referendum and placed on the ballot for the approval of the electors of each township affected.

An amendment that is approved by the legislative authority becomes effective 30 days after the date of its adoption, unless a referendum petition is submitted to the legislative authority within that 30 days. Please note that a petition that is filed with the township trustees must be accompanied by a map of the area affected by the zoning amendment (R.C. 519.12(H)).

A petition, such as SoS Form No. 6-N (Petition for county zoning referendum) or SoS Form No. 6-O (Petition for township zoning referendum), is necessary in order to place an amendment on the ballot.

A. Petition requirements

The form of the petition is set forth in R.C. 303.12(H) (County) and 519.12(H) (Township). Additionally, each petition must conform to the general requirements prescribed by R.C. 3501.38.

The petition must be signed by a number of qualified electors residing within the unincorporated area of the township or part thereof included in the zoning plan, equal to not less than 8 percent of the total of all votes cast for governor in the area at the last gubernatorial general election (R.C. 303.12(H), 519.12(H)) (See Filing fees in Chapter 12).

The petition must request that the legislative authority submit the amendment to the electors of the affected area at the next primary or general election (R.C. 303.12(H), 519.12(H)).

B. Deadline for submission to board of elections

1. Counties:

While R.C. 303.12 does not specify a deadline for the submission of a zoning referendum by the county commissioners to the county board of elections, R.C. 3501.02(F) requires that all issues be certified to the

board of elections not later than 4 p.m. on the 90th day before the day of the election. Therefore, the deadline for submission is 4 p.m. on the 90th day before the day of the election.

2. Townships:

R.C. 519.12(H) specifies that the zoning referendum petition and the map of the area affected by the zoning proposal must be transmitted (i.e., certified) to the board of elections by the township trustees within 2 weeks of its receipt and not less than 90 days before the election. The board of elections is charged with determining the validity and sufficiency of the petition.

A majority vote in favor of the amendment is required for the amendment to take effect. A tie vote defeats the amendment.

REPEAL OF ZONING PLAN

In any township in which there is in force a plan of township or county zoning, the plan may be repealed in one of two ways:

1. Action by the legislative authority

The board of township trustees or county commissioners may adopt by resolution the repeal of the zoning plan.

2. Petition

A petition may be presented to the legislative authority requiring the submission of the question of repeal of the zoning plan to the electors (See Filing fees in Chapter 12).

A. Petition requirements

The form of the petition shall be similar in all relevant aspects to the form prescribed by R.C. 303.12(H) and 519.12(H) (R.C.303.25, 519.25). The petition must also conform to the general requirements prescribed by R.C. 3501.38.

The petition must be signed by a number of qualified electors residing within the unincorporated area of the township or part thereof included in the zoning plan equal to not less than 8 percent of the total of all votes cast for governor in the area at the last gubernatorial general election (R.C.303.25, 519.25).

The petition must request the legislative authority to submit the question of the repeal of the zoning plan to the electors of the area for approval or rejection at a special election to be held on the day of the next primary or general election (R.C.303.25, 519.25).

B. Deadline for submission to board of elections

The petition must be certified to the board of elections by the legislative authority not fewer than 90 days before the election (R.C.303.25, 519.25).

A majority vote in favor of the repeal is required to repeal the zoning plan. A tie vote defeats the repeal.

MUNICIPAL ZONING

Authority

A non-chartered municipality may enact zoning regulations through a municipal planning commission, which is governed by Revised Code §§713.01 through 713.15.

A chartered municipality may adopt zoning regulations pursuant to the powers granted to it by its charter. If the municipality's charter does not address zoning regulations, the municipality may pass zoning ordinances pursuant to the Revised Code.

Zoning measures may also be proposed through initiative, and a zoning ordinance may be challenged by referendum. In addition to the information provided by Chapter 6, Municipal and Township Initiative and Referendum, the following are specific details regarding the initiative and referendum process for municipal zoning.

Initiative

The procedures for a zoning initiative are covered in R.C. §§731.28, 731.30-731.41. These sections are covered in detail in Chapter 6, Municipal and Township Initiative and Referendum. In

addition to complying with these specific code sections, any petition for a zoning initiative must conform to the general petition requirements prescribed by R.C. 3501.38.

Please note that zoning initiatives are not subject to R.C. 713.12. Therefore, a public hearing regarding the initiative is not required, as it would be for a zoning ordinance passed by city council. *Drockton v. Cuyahoga County Board of Elections* (1968), 16 Ohio Misc. 211.

Referendum

The procedures for a referendum are covered in R.C. §§731.29-731.41. These sections are covered in detail in Chapter 6, Municipal and Township Initiative and Referendum. In addition to complying with these specific code sections, any petition for a referendum must conform to the general petition requirements prescribed by R.C. 3501.38.

