

THE ZONING COMMISSION

How Should a Township Look?



Who Decides?

- The Zoning Commission Does



Vision

- The Zoning Commission acts as the legislative branch of the Township.
- Their job is to envision how the Township should look and plan a code to accomplish that vision.

Composition

- The Zoning Commission has 5 members, plus zero to 2 alternate members.
- The Board of Trustees appoint the members for 5 years with the exception of alternates
- The members must all come from the unincorporated areas of the Township

Zoning Plan

- The Township Zoning Commission may request the County or regional planning commission to prepare a zoning plan which can include text and maps for all or part of the unincorporated areas.

The Legislative Branch

- The Ohio Supreme Court has held that the adoption or amendment of a zoning regulation is a legislative act.
 - Tuber v. Perkins, 6 Ohio St.2d 155 (1966)

Or Perhaps Administrative?

- The US Supreme Court has gone back and forth since that time on whether or not the act of changing zoning ordinances is legislative or administrative.
- The Court seems to say that a zoning commission is whatever the State Supreme Court defines it as.

In Ohio it is Legislative

- The Ohio Supreme Court has characterized zoning changes as a legislative act.
- However, the Supreme Court does say that while in Ohio it may be a legislative act, the people of Ohio have the right to change that characterization in the future.

Why is this important?

- Legislative Acts carry a strong presumption of validity.
- They are subject to less judicial scrutiny than administrative decisions.
 - *Village of Euclid v. Ambler Realty Co.*, 272 U.S. 365 (1926).

The Referendum

- However, they may be subject to a referendum by the voters on constitutional or statutory grounds.

Euclid v. Ambler

- The U.S. Supreme Court established a test for legislative validity.
 - If the validity of the legislative classification for zoning purposes be fairly debatable, the legislative judgment must be allowed to control.

Legislative Actions

- Have limited procedural safeguards such as
 - the right to notice and
 - the right to be heard.

The Zoning Commission

- Is responsible for the development of the zoning resolution and advises the board of county commissioners and the board of trustees on text and map changes.



- Ohio Revised Code Sections 303.02 and 519.02 specify the subject matter that the zoning resolution may cover.

303.02 and 519.02

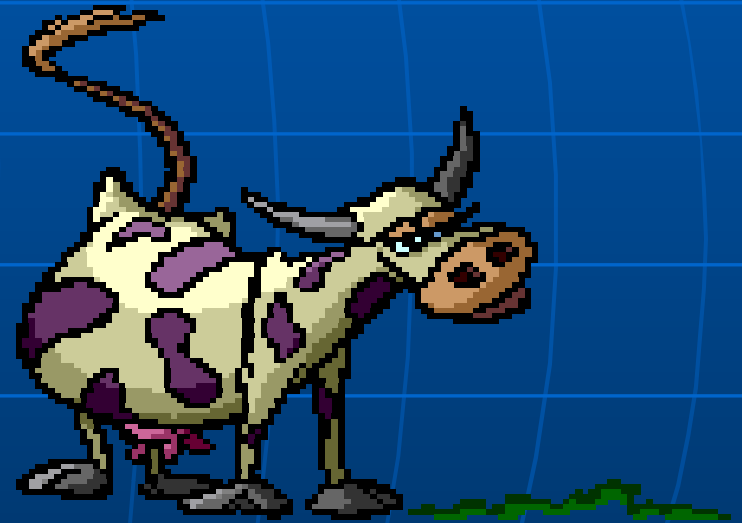
- Require that the regulation be in accordance with a comprehensive plan.



- The regulations may, for the purpose of promoting the public health, safety and morals, control
 - 1. building location, height, bulk, stories, and size and other structures.
 - 2. percentages of lot areas which may be occupied, setback, building lines, sizes of yards, courts, and open spaces
 - 3. density of population
 - 4. the uses of buildings and other structures

Not Agricultural Uses

- The Regulations may not include agricultural or animal husbandry uses.
- UNLESS . . .



How to Change the Zoning Resolution

- Changes to the zoning resolution may come
 - From the zoning commission
 - As a recommendation from the Board of Trustees
 - Via application from one or more owners or lessees from the affected areas.

Zoning resolutions
may be amended
through initiative
petitions in
municipalities

**BUT NOT IN
TOWNSHIPS OR
COUNTIES**



- The zoning commission will review the recommendation and must certify it to the county or township board.



Public Hearing

Prior to certifying its recommendation for a change, the zoning commission must hold a public hearing on the changes.

With appropriate notice given to the public

The Planning Commission

- After the public hearing, the Board must submit the recommendation to the planning commission within 5 days for review and approval, disapproval or suggestions.
- The planning commission then must either recommend approval, denial or modification.

Response by the Planning Commission

- The Zoning Commission must consider the recommendation of the Planning Commission.
- There is no requirement however, that they follow the recommendation of the planning commission

No Response?

- If the Planning Commission does not respond within the appropriate time period, the zoning commission can table the topic if they so choose until the next meeting.



The 30 day rule

- Within 30 days after holding the hearing, the zoning commission is required to forward the application or resolution, text, map, its recommendation, and that of the planning commission to the county or township board.

The Completed Recommendation

- Once a zoning commission certifies the recommendations to the board of township trustees.
- The Township Trustees have 30 days from receipt of the packet to schedule a public hearing on the recommendation of the zoning commission.

The Township Trustees

- Within 20 days of the public hearing, the Board of Trustees must
 - Adopt or deny the recommendation from the zoning commission OR
 - Adopt some modification thereof.

To Deny or Modify

- In order to deny or modify the recommendation of the zoning commission, the Board of trustees must have a unanimous vote.
- Otherwise, the recommendation is adopted.

HOWEVER

- Failure to act on the application within the 20 day period does not automatically adopt the resolution.
- Rather, the Board of Trustees is then subject to a Writ of Mandamus

REMEMBER

- The Zoning Commissions job is to Have VISION

