

**The**  
**ZONING**  
**INSPECTOR**

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Medina County Dept. of Planning Services  
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# The Zoning Inspector

ORC 519.16 For the purpose of enforcing the zoning regulations, the board of township trustees may provide for a system of zoning certificates, and for this purpose may establish and fill the position of township **zoning inspector**, together with **such assistants** as the board deems necessary, fix the compensation for such positions, and make disbursements for them.

# Duties and Responsibilities

1. Issue permits
2. Inspect construction
3. Enforce the zoning resolution
4. Keep zoning records

# Zoning Inspector's Bond

**[§ 519.16.1] § 519.161 Inspector's bond.**

The township zoning inspector, before entering upon the duties of his office, shall give bond . . . .

# Zoning Resolution

ORC 519.02. . . . All such regulations shall be uniform for each class or kind of building or other structure or use throughout any district or zone, but the regulations in one district or zone may differ from those in other districts or zones.

# CONSISTENCY

Treat everyone  
the same.

# Permit Issuance

## **§ 519.17 Zoning certificate required.**

No person shall locate, erect, construct, reconstruct, enlarge, or structurally alter any building or structure within the territory included in a zoning resolution without obtaining a zoning certificate, if required under section 519.16 of the Revised Code, and no such zoning certificate shall be issued unless the plans for the proposed building or structure fully comply with the zoning regulations then in effect.

# Inspections

1. Viewing or walking the property
2. Measuring - equipment
3. Recording results
4. Violations – follow enforcement methods

# Enforcement

## **§ 519.23 Prohibition against violating resolution.**

No building shall be located, erected, constructed, reconstructed, enlarged, changed, maintained, or used, and no land shall be used in violation of any resolution, or amendment or supplement to such resolution, adopted by any board of township trustees under sections **519.02** to **519.25**, inclusive, of the Revised Code. Each day's continuation of a violation of this section may be deemed a separate offense.

# Enforcement Methods

1. Method of obtaining notice of violation
2. Inspection of property
3. Pictures
4. Meeting the violator on site
5. Letter of violation
6. Follow up
7. Turn over to legal counsel

The  
**ZONING  
INSPECTOR**

William L. Thorne  
Medina County Prosecutor's Office  
May 15, 2003

# White Knight ?



or...

# Big Bully ?



The position of Township Zoning Inspector is provided for in R.C. 519.16 which states simply:

The Board of Township Trustees may provide for a system of zoning certificates and for this purpose may establish and fill the position of Zoning Inspector...

The code gives really no guidance as to how a Zoning Inspector is to actually perform his role, or how he or she is to interact with, not only the Trustees, but the Zoning Commission and Zoning Board of Appeals.

As to the Trustees, however, the general law is clear, the Zoning Inspector is an at will employee. He or she serves at the pleasure of the Board.

That does not mean, however, that the Trustees can order the Zoning Inspector to ignore the Zoning Code, or violations thereof. It does mean they have the ability to become directly involved in the process if they so choose.

The Trustees themselves, are legally bound to follow the Zoning Code. Deliberate failure can result in charges of misfeasance, malfeasance or nonfeasance.

In effect, if the Trustee chooses to act as Zoning Administrator, they take on the liability, as well as the responsibility for their actions.

I began working with zoning around 1974. One of the first training documents I received was a “Rural Zoning Handbook” which I still have. It contains an entire section on the Zoning Inspector consisting of a total for four pages, even though the opening sentence says:

“The most important individual in the entire rural zoning system is the Zoning Inspector.”

Even today there is little written directly dealing with the Zoning Inspector and how he is to perform his duties. In the current edition of “Ohio Planning and Zoning Law,” about two pages is all the position receives; while in the current edition of “Ohio Jurisprudence” it gets about three.

Even today, however, the importance of the position is readily acknowledged.

The Zoning Inspector's job is the day-to-day administration of the zoning resolution. He or she must:

- 1) Have a thorough knowledge of the zoning text and map.
- 2) Be able to communicate well and explain in simple terms the often technical provisions of a zoning resolution.
- 3) Always be courteous and helpful

**BUT THE FOREMOST RESPONSIBILITY IS**

- 4) The fair and effective enforcement of the Zoning code.

## **SPECIFIC DUTIES:**

As the primary zoning administrative official, the Zoning Inspector should conduct a variety of activities. Again, it is his primary responsibility to enforce the code as it exists. It is not proper for him or her to make exceptions. The Zoning Inspector is to apply the letter of the law.

### **1) Investigation of Violations**

It is recommended that the Zoning Inspector periodically tour his jurisdiction to see if any violations are taking place or land use changes are occurring without approved zoning permits.

In the past it was recommended that citizen complaints be put in writing. The purpose was to minimize the number of frivolous or unfounded complaints arising out of personal disputes. Usually persons who file written complaints will have some bases for their charge.

Today, however, this can be a problem because of the public records law. Once a written report is generated, it becomes a public record subject to disclosure, unless confidentiality has been reasonably promised. For a promise of confidentiality to be “reasonably promised,” it must have been based on an “**individual determination**” that the promise was necessary to further the purpose of the investigation. Routine or automatic promises of confidentiality are not “reasonable” within the meaning of the Public Records Act.

When a violation is detected, a written notice should be sent to the violator. It should explain the nature of the violation, which may require more than a reference to the code language, and a request that the violation be corrected within a specific time frame.

If there is a failure to comply, a Prosecutor's work sheet should be completed and the matter forwarded for prosecution.

*NOTE: Before any formal action, the Zoning Inspector must be able to prove to an impartial party that the code has been violated. Simple belief is not enough. How will you prove it? Remember, the Zoning Inspector him or herself does not have to be the key witness.*

*EXAMPLE: If cited for junk yard because of storing inoperative motor vehicles, how will you show they are inoperative?*

#### ***4) Maintain a Record of Non-conforming Uses***

In addition to keeping day-to-day records, it is a worthwhile although difficult task to keep an inventory of all non-conforming uses. Failure to have such a list or map may encourage a continual debate about the location and extent of non-conforming uses and whether they were established before or after the effective date of the resolution. The map should be dated and signed by those persons who witnessed the non-conforming use or established its validity. Ideally, an original non-conforming use map should be made at the time of the adoption of zoning.

## ***5) Maintain Up-to-Date Zoning Text and Map***

In many areas the Zoning Inspector has the responsibility to maintain an up-to-date zoning text and map. It is essential that both are current so that the residents can be aware of existing requirements and effective enforcement insured.

## ***6) Propose Amendments***

The Zoning Inspector will often be the first to recognize errors in drafting a zoning resolution. If he or she finds errors, or constantly recurring problems, he or she should inform the Zoning Commission and Township Trustees who may initiate amendments.

## ***7) Review Subdivision Plats***

The Zoning Inspector statutorily should review all subdivision plats which are submitted to the County Planning Commission for approval. If there are violations of the zoning resolution, he or she should inform the developer and the County Planning Commission immediately. The plat should not be approved until all zoning requirements are met.

## ***8) Cooperation with County Auditor and Building Department***

It may be desirable for the Zoning Inspector to send a copy of each approved zoning permit to the County Auditor and/or County Building Department.

***9) Advocate for the Township Zoning Code?***

A Zoning Inspector should be carefully chosen. Zoning is only as good as its enforcement. Without a good Zoning Inspector, enforcement is virtually impossible.

## ***2) Review Applications for Zoning Permits***

The Zoning Inspector should review all applications for zoning permits. The “Ohio Revised Code” specifies that no person shall locate, erect, construct, reconstruct, enlarge, or structurally alter any building or structure without first obtaining a zoning permit. If the application conforms to all the requirements of the zoning resolution, the permit should be approved. If, however, the application does not conform to all requirements of the resolution, he or she should inform the applicant specifically how the request does not conform to the requirements. If the applicant does not make the required changes, the Zoning Inspector should deny the application, and explain in writing why the application was denied. The Zoning Inspector should also inform the applicant of the right to appeal his decision or to request a variance from the Board of Zoning Appeals.

### ***3) On-Site Inspections***

The Zoning Inspector should also periodically conduct on-site inspections after the zoning permit is approved. This is the only way to assure that the actual construction will conform to the approved application. It is especially important to conduct site inspections before substantial construction has been completed. Once construction has begun, correcting violations becomes very expensive to the property owner and difficult to enforce. Some resolutions specify that after the completion of construction, the use cannot be occupied until a certificate of occupancy is issued which insures that the building was constructed as stated in the application for the zoning permit. Such a requirement is encouraged; however, periodic inspections are still useful. An inspection early in the construction process could save a well-meaning, but confused, property owner considerable money.

## BULLETS:

- A township zoning inspector need not be a resident of the township.
- Township can combine resources and hire the same zoning inspector, indeed such was recommended in the “1970 Rural Zoning Handbook.”
- Zoning Inspectors are required to be bonded: 519.161
- The Ohio Attorney General has issued an advisory opinion that, pursuant to the Fourth Amendment to the United States Constitution respecting unlawful searches and seizures, a township zoning inspector may not enter and inspect private property without consent unless there is an emergency, the property is open to the public, or the activity conducted on the property has a history of government oversight to that no expectation of privacy exists: OAG No. 98-108

- Courts are to give deference to zoning inspectors interpretation of the zoning code.
- A zoning permit must be issued if the permit meets the law at the time of application.
- If a zoning inspector makes an error on a zoning permit, he or she must still enforce the code, even if it means rescinding the previous permit.
- If a zoning code is enacted, neither the Trustee or Zoning Commission has the right to interfere with the enforcement of the law.
- The Board of Appeals has authority to hear appeals where an error is alleged in the zoning inspector's grant or refusal of a zoning permit.

- A zoning inspector cannot refuse to give a permit for projects lacking criteria not actually required by law.
- The objections of a large number of residents of an affected area is not a sound basis for the denial of a zoning certificate.
- Township can appoint an assistant zoning inspector.
- Salary of zoning inspector is at discretion of the Board of Trustees.

The Zoning Inspector is

**NOT**

- 1) The Agent of either the Zoning Board of Appeals or the Zoning Commission.

**STATUTORILY**

The Zoning Inspector has

- 1) No obligation to report to such Boards.
- 2) No obligation to appear routinely at their meetings.
- 3) No obligation to do research for them.

The Zoning Inspector

**IS**

an equal partner in the zoning process with a unique position and distinct responsibilities.

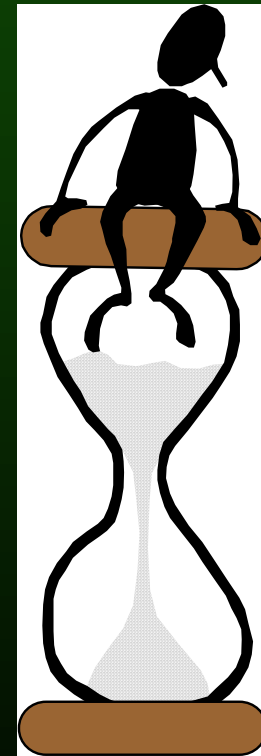
THE  
PERFECT  
ZONING  
INSPECTOR  
HAS ...



THE  
WISDOM  
OF  
SOLOMON



THE  
PATIENCE  
OF  
JOB



and...



THE  
INSTINCTS  
OF  
JAMES BOND