

Ohio Township Zoning Sourcebook



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disapproves the changes, a unanimous vote of the Township Board of Trustees is required to overrule the Township Zoning Commission (ORC 519.09).

The next step is the required **approval by a majority vote of the electors** voting on the Zoning Resolution approved by the Township Board of Trustees (ORC 519.11).

Within five working days after the Zoning Resolution's effective date, the Township Board of Trustees shall file the Zoning Resolution, including the text and maps, in the office of the County Recorder, and duplicates must be filed with the Regional or County Planning Commission.

PROCEDURES FOR AMENDMENTS TO ZONING RESOLUTION

The procedures to amend the Township Zoning Resolution or zoning text are similar to those followed during the adoption of the original Zoning Resolution (ORC 519.12). A property owner, a lessee of the property, the Zoning Commission, or the Township Board of Trustees may initiate the action to amend the Zoning Resolution (ORC 519.12).

Procedures and Forms to Initiate and Process Map & Text Amendments to the Township Zoning Resolution:

The following is a procedural guide to process a request for amendment to the township Zoning Resolution pursuant to ORC 519.12.

There are two (2) types of amendments that can be made to the Zoning Resolution. These two types are:

Map Amendment – A re-zoning (change) of the use classification of a parcel or parcels of property in the township. (i.e., change the classification of a parcel of property from Residential to Commercial)

Text Amendment – A revision or addition to the text of the zoning resolution without a change of the use classification of a parcel or parcels of property on the zoning map.

Both types of changes are initiated and processed for adoption or denial in the same manner.

How Zoning Amendments Are Initiated:

Zoning Amendments are initiated in one of three ways.

A written petition filed by a property owner or lessees in real property within the township.

By resolution of the Township Zoning Commission to consider an amendment to the Zoning Resolution.

By resolution of the Township Board of Trustees certified to the Township Zoning Commission asking the Township Zoning Commission to consider a proposed amendment to the Zoning Resolution.

How Zoning Amendments Are Processed Once Initiated:

Once a zoning amendment has been initiated, it must be processed. The following section outlines how to properly process a zoning amendment:

- A. Upon receipt of either (i) a petition from a property owner or lessee of property, (ii) a resolution from the Township Board of Trustees, or (iii) upon adoption of a resolution of the Township Zoning Commission, the following action must be taken: Within 5 (five) days of receipt, the Township Zoning Commission Secretary **shall** send a letter to the County Planning Commission with a copy of the proposed map or text amendment for review and recommendation of the County Planning Commission.
- B. The Township Zoning Commission must set a date for a public hearing no sooner than 20 (twenty) days and no later than 40 (forty) days from the date that the Township Zoning Commission received the resolution.
- C. Notice of the hearing must be given as follows:
 - a. Zone Change – Map Amendment
 - i. Must be published in one or more newspapers of general circulation in the township at least 10 (ten) days prior to the hearing.
 - ii. If the amendment involves the rezoning or redistricting of 10 (ten) or fewer parcels of land, notice must be given by first class mail, mailed at least 10 (ten) days prior to the hearing date, to all property owners within, contiguous to, and directly across the street from the property to be re-zoned at the address that appears on the County Auditor's current tax list (i.e., tax

duplicate).

- iii. If more than 10 (ten) parcels are to be re-zoned, notice to property owners by mail is not required.

b. Zone Change - Text Amendment

- i. Must be published in one or more newspapers of general circulation in the township at least 10 (ten) days prior to the hearing.
- ii. Notice to property owners is not required.

D. Conducting a Public Hearing - At the time, date, and place of the hearing as set by the Township Zoning Commission, the Township Zoning Commissioners shall conduct a public hearing on the proposed zoning amendment.

- a. The meeting is subject to the Ohio Sunshine Law (Ohio Open Meetings Act) and all comments of the public, discussion, and deliberation of the Township Zoning Commission must occur in open session. (Executive Sessions or closed-door sessions are not permitted.)
- b. The County Planning Commission's letter of recommendation for the approval or denial of the proposed amendment must be read and **shall** be considered by the Township Zoning Commission.
- c. Upon conclusion of the public hearing and within 30 (thirty) days, the Township Zoning Commission shall by resolution recommend to the Township Board of Trustees the approval or denial of the proposed amendment. The Township Zoning Commission must use a roll call vote.

E. The Secretary of the Township Zoning Commission is required to submit the recommendation to the Township Board of Trustees with the following documents:

- a. Original Zone Change Application, or Resolution of Township Board of Trustees, or Resolution of Township Zoning Commission initiating the zoning amendment.
- b. Recommendation of the Township Zoning Commission for approval, denial, or modification of the proposed zoning amendment in the form

of a resolution with a roll call vote.

- c. The letter of recommendation from the County Planning Commission.
- d. The proposed text change or map change pertaining to the proposed amendment.

Criteria to consider in adopting a zoning amendment – When considering an amendment to the zoning resolution, the controlling consideration should be the township’s comprehensive land use plan. All zoning amendments, map or text, should be compatible with the township’s comprehensive plan for future land use and development and should further the implementation of the plan and the plan’s intent. Map amendments should never be made contrary to the comprehensive plan. Although spot zoning is not “illegal per se,” it should be avoided if at all possible and used in only exceptional circumstances. Map amendments are proper where there has been a substantial change in the character of the property and neighborhood which renders the current zoned use classification obsolete or unreasonably restrictive or exclusionary, or when flexibility is needed to meet the changing needs and dynamics of the community. Zoning amendments should never be made on popularity alone. Common sense should always prevail. Zoning amendments are subject to referendum.

Processing of Zoning Amendment by Township Board of Trustees:

- 1. Upon receipt of the recommendation and documents from the Township Zoning Commission, the Township Board of Trustees shall set a time for a public hearing on the proposed text or map amendment; that date shall not be more than 30 (thirty) days from the date of the receipt of the recommendation.
- 2. Publication of Notice:
 - a. The Township Board of Trustees must publish a legal advertisement in one or more papers of general circulation in the township at least 10 (ten) days before the date of the hearing.
 - b. Notification of the public hearing by letter (certified or regular mail) to property owners or parties in interest is **NOT** required.
- 3. Conducting the Public Hearing:
 - a. At the advertised time, date, and place, the Township Board of Trustees shall conduct a public hearing on the proposed zoning amendment. Comments from the public will be taken with discussion and comments from the Township Board of Trustees.

- b. The public hearing held by the Township Board of Trustees is subject to the "Sunshine Law" (Ohio Open Meetings Act). All comments of the public, discussion, and deliberation of the Township Board of Trustees must occur in open session. (Executive Sessions or closed-door sessions are not permitted.)
- c. Upon conclusion of the public hearing and within 20 (twenty) days, the Township Board of Trustees **shall** either adopt or deny the recommendation of the Township Zoning Commission. The Township Board of Trustees may also choose to adopt **some** (limited) modification of the proposed amendment.
- d. The vote of the Township Board of Trustees to adopt, deny, or modify the Zoning Commission's recommendation requires only a "majority" vote. (Prior to the amendment of ORC 519.12, effective 09-22-08, the denial of the recommendation of the Zoning Commission required a "unanimous" vote of the Township Board of Trustees.)

Effective Date of Amendment – The proposed amendment, if adopted by the Township Board of Trustees, shall become effective in 30 (thirty) days after the date of its adoption, unless a referendum petition is filed with the Township Board of Trustees to submit the issue of the proposed amendment to the electors of the township, by placing it on the ballot for the next primary or general election.

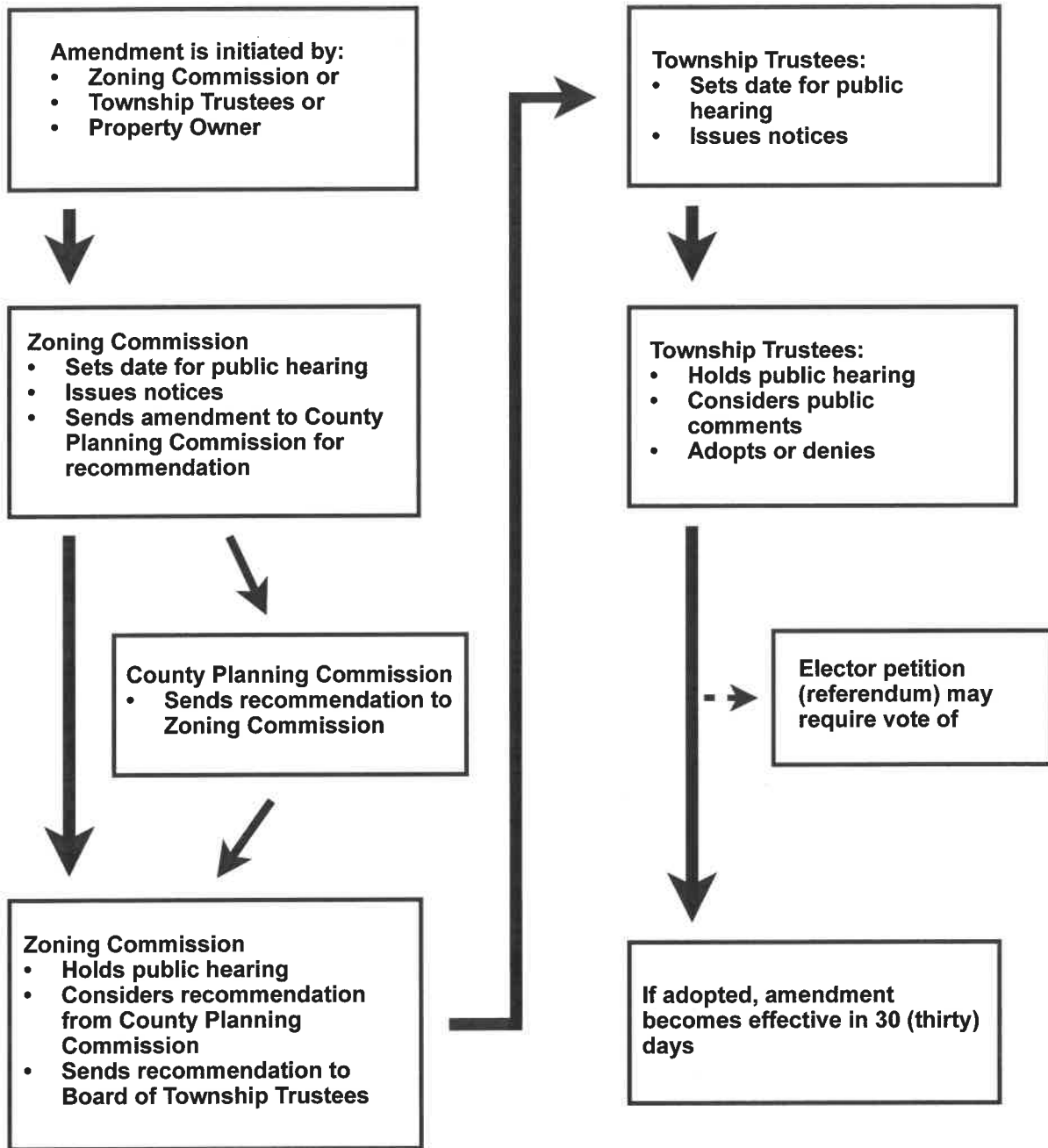
The **referendum petition** must be:

- Signed by a number of registered electors residing in the unincorporated area of the township or part of that unincorporated area included in the zoning plan equal to not less than eight per cent of the total vote cast for all candidates for governor in that area at the most recent general election at which a governor was elected,
- Requesting the Township Board of Trustees to submit the amendment to the electors of that area for approval or rejection at a special election to be held on the day of the next primary or general election that occurs at least seventy-five days after the petition is filed.
- Each part of this petition shall contain the number and the full and correct title, if any, of the zoning amendment resolution, motion, or application, furnishing the name by which the amendment is known and a brief summary of its contents (ORC 519.12(H)).

Filing of Amendment with County Recorder and County Planning Commission – Within 5 (five) working days after an amendment’s effective date, the Township Board of Trustees **shall** file the text and maps of the amendment in the offices of both the County Recorder and the County Planning Commission.

The failure to file any amendment, or text or maps with the offices of either the County Recorder or County Planning Commission does not invalidate the amendment and is not grounds for an appeal of any decision of the Board of Zoning Appeals based upon said amendment.

Figure 2: Zoning Amendment Process



* Figure 1 is based on a graphic in Brownhelm Township’s Zoning Resolution.