

## **AUTHORITY**

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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, or 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 7-10 of this chapter.](#)

## **COUNTY AND TOWNSHIP ZONING**

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### **Resolution and zoning commission**

In order to exercise the power to zone, the appropriate legislative authority (board of county commissioners or board of 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.<sup>1</sup>

After the legislative authority of the county or township adopts a resolution to proceed with zoning, it must establish a zoning commission. The commission is comprised of five members who are residents of the unincorporated area to be zoned.<sup>2</sup>

The zoning commission must prepare and submit to the legislative authority a comprehensive plan, including text and maps, for zoning the unincorporated area.<sup>3</sup>

### **Submission of Zoning Plans to Electors**

After 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.<sup>4</sup>

#### **A. Filing deadline**

The legislative authority must file the zoning resolution to the board of elections not later than 4 p.m. of the 90th day before the date of the election.<sup>5</sup>

#### **B. Ballot**

The ballot need not contain the full text of the resolution. A condensed text that properly describes the proposal 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.<sup>6</sup>

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<sup>1</sup> [R.C. 303.03, 519.03.](#)

<sup>2</sup> [R.C. 303.04, 519.04.](#)

<sup>3</sup> [R.C. 303.05, 519.05.](#)

<sup>4</sup> [R.C. 303.11, 519.11.](#)

<sup>5</sup> [R.C. 303.11, 519.11.](#)

<sup>6</sup> [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 (posted 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.<sup>7</sup>

### D. Results

If a majority of those voting on the zoning resolution vote yes, the resolution passes. If the resolution receives an equal number of affirmative and negative votes, it fails for lack of a majority.<sup>8</sup>

## REFERENDUMS<sup>9</sup>

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An amendment that is approved by the county or township legislative authority becomes effective 30 days after the date of its adoption, unless a valid and sufficient referendum petition is filed with the legislative authority within that 30 days requesting the legislative authority to submit the amendment to the electors of that area for approval or rejection. The issue must be submitted to the voters at the next primary or general election occurring at least 90 days after the petition is submitted.

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<sup>7</sup> [R.C. 3501.03](#).

<sup>8</sup> [R.C. 303.11](#), [519.11](#).

<sup>9</sup> [R.C. 303.12\(H\)](#), [519.12\(H\)](#).





## A. Referendum petition requirements

### 1. County referendum petition - Form and content

The form of a county zoning referendum petition shall be substantially as set forth in [R.C. 303.12\(H\)](#), the statute that provides for the referendum. The referendum petition also is governed by the general petition provisions contained in [R.C. 3501.38](#) and [R.C. 3503.06](#).

The Secretary of State's office prescribes a template, [Form 6-N](#), that referendum petitioners may, but are not required to, use.

The referendum petition may consist of one or more parts, but all the parts of the referendum petition must be filed together at the same time, as a single instrument.<sup>10</sup>

Each part of the referendum petition shall contain all of the following:

- 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;
- A brief summary of the contents of the zoning amendment; and
- A request that the county legislative authority submit the zoning amendment to the electors of the appropriate area for approval or rejection at an election held on the day of the next primary or general election occurring at least 90 days after the petition is filed.

The referendum petition must contain the signatures of qualified electors residing in the unincorporated area of the township or the part of that unincorporated area included in the zoning plan equal in number to at least 8 percent of the total vote for the office of governor in that area at the most recent gubernatorial election.

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<sup>10</sup> [R.C. 3501.38\(K\)](#).





2. *Township referendum petition – Form and content; Map*  
a. *Form and Content*

The form of a township zoning referendum petition shall be substantially as set forth in [R.C. 519.12\(H\)](#), the statute that provides for the referendum. The referendum petition also is governed by the general petition provisions contained in [R.C. 3501.38](#) and [R.C. 3503.06](#).

The Secretary of State's office prescribes a template, [Form 6-O](#), that referendum petitioners may, but are not required to, use.

The referendum petition may consist of one or more parts, but all the parts of the referendum petition must be filed together at the same time, as a single instrument.<sup>11</sup>

Each part of the referendum petition shall contain all of the following:

- 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;
- a brief summary of the contents of the zoning amendment; and
- a request that the legislative authority of the county or the township submit the zoning amendment to the electors of the appropriate area for approval or rejection at the next primary or general election occurring at least 90 days after the petition is filed.

The referendum petition must contain the signatures of qualified electors residing in the unincorporated area of the township or the part of that unincorporated area included in the zoning plan equal in number to at least 8 percent of the total vote for the office of governor in that area at the most recent gubernatorial election.

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<sup>11</sup> [R.C. 3501.38\(K\)](#).





- b. *Additional filing requirement – Map of affected area*  
R.C. 591.12(H) specifically requires that an appropriate map of the area affected by the zoning proposal must be filed with a petition seeking to referendum a township zoning amendment.

## **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 board of township trustees must certify the zoning referendum petition and the map of the area affected by the zoning proposal to the board of elections within 2 weeks after its receipt and not less than 90 days before the election at which the question is to be voted upon. The board of elections determines the validity and sufficiency of the petition.

## **C. Submission of referendum to the voters**

1. *County Zoning Referendum*<sup>12</sup>  
The board of elections must submit the zoning amendment to the electors of the appropriate area for approval or rejection at a special election held on the day of the next primary or general election occurring at least 90 days after the petition is filed.
2. *Township Zoning Referendum*<sup>13</sup>  
If the board of elections determines that the referendum petition is

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<sup>12</sup> R.C. 303.12(H).

<sup>13</sup> R.C. 519.12(H).





sufficient and valid, it shall submit the zoning amendment to the electors of the appropriate 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 90 days after the date the petition is filed with the board of township trustees, **regardless of whether any election will be held to nominate or elect candidates on that day.**

The zoning amendment is approved if a majority of voters vote in favor of the issue. The amendment is rejected if a majority of voters vote against the issue, or if the issue receives an equal number of votes for and against it.

## **REPEAL OF COUNTY OR TOWNSHIP ZONING PLAN**

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### **A. Repeal of county zoning plan<sup>14</sup>**

#### 1. *Procedures*

In any township in which there is in force a plan of county zoning, the plan may be repealed by the board of county commissioners, as to such township, in the following manner:

- a. The board of county commissioners may adopt a resolution upon its own initiative.
- b. The board shall adopt a resolution directing that the question of whether or not the zoning plan in effect in such township shall be repealed, if there is presented to it a petition requesting that the question be submitted to the electors residing in the unincorporated area of the township included in the zoning plan at a special election to be held on the day of the next primary or general election.

#### 2. *Petition Requirements*

The petition shall be similar in all relevant aspects to the county zoning referendum petition prescribed in [R.C. 303.12\(H\)](#). The petition also is

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<sup>14</sup> [R.C. 303.25](#).





governed by the general petition provisions contained in [R.C. 3501.38](#) and [R.C. 3503.06](#).

The petition must request that the board of county commissioners submit the question to the electors residing in the unincorporated area of the township included in the zoning plan at a special election to be held on the day of the next primary or general election.

The petition must contain the signatures of qualified electors residing in the unincorporated area of the township included in the zoning plan equal in number to at least 8 percent of the total vote for the office of governor in that area at the most recent gubernatorial election.

The petition may consist of one or more parts, but all the parts of the petition must be filed together at the same time, as a single instrument.<sup>15</sup>

The Secretary of State's office does not prescribe a template specifically for this purpose, but petitioners may adapt Secretary of State [Form 6-N](#) (county zoning referendum petition form) for use under [R.C. 303.25](#).

### 3. *Election Procedure, Limitation*

The board of county commissioners shall certify its resolution ordering the election to the board of elections not later than 90 days before the election at which the question is to be voted upon.

Not more than one such election shall be held in any two calendar years.

## **B. Repeal of township zoning plan<sup>16</sup>**

### 1. *Procedures*

In any township in which there is in force a plan of township zoning, the plan may be repealed by the board of township trustees in the following manner:

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<sup>15</sup> [R.C. 3501.38\(K\)](#).

<sup>16</sup> [R.C. 519.25](#).







- a. The board of township trustees may adopt a resolution upon its own initiative.
- b. The board shall adopt a resolution directing that the question of whether or not the zoning plan in effect in such township shall be repealed, if there is presented to it a petition requesting that the question be submitted to the electors residing in the unincorporated area of the township included in the zoning plan at a special election to be held on the day of the next primary or general election.

## 2. *Petition Requirements*

The petition shall be similar in all relevant aspects to the township zoning referendum petition prescribed in [R.C. 519.12\(H\)](#). The petition also is governed by the general petition provisions contained in [R.C. 3501.38](#) and [R.C. 3503.06](#).

The petition must request that the board of township trustees submit the question to the electors residing in the unincorporated area of the township included in the zoning plan at a special election to be held on the day of the next primary or general election.

The petition must contain the signatures of qualified electors residing in the unincorporated area of the township included in the zoning plan equal in number to at least 8 percent of the total vote for the office of governor in that area at the most recent gubernatorial election.

The petition may consist of one or more parts, but all the parts of the petition must be filed together at the same time, as a single instrument.<sup>17</sup>

The Secretary of State's office does not prescribe a template specifically for this purpose, but petitioners may adapt Secretary of State [Form 6-O](#) (township zoning referendum petition form) for use under [R.C. 519.25](#).

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<sup>17</sup> [R.C. 3501.38\(K\)](#).





3. *Election Procedure, Limitation*

The board of township trustees shall certify its resolution ordering the election to the board of elections not later than 90 days before the election at which the question is to be voted upon.

Not more than one such election shall be held in any two calendar years.

## MUNICIPAL ZONING

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### Authority

A non-chartered municipality may enact zoning regulations through a municipal planning commission, which is governed by sections [713.01](#) through [713.15 of the Revised Code](#).

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

A zoning measure also may 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.

### A. 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](#) and [R.C. 3503.06](#).





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.<sup>18</sup>

## B. Referendum

The procedures for a referendum are governed by the provisions contained in sections [731.29](#) through [731.41 of the Revised Code](#). 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](#) and [R.C. 3503.06](#).

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<sup>18</sup> *Drockton v. Bd. of Elections of Cuyahoga Cty.* (1968), 16 Ohio Misc. 211, 240 N.E.2d 896, 45 O.O.2d 171.

