

**OPINION NO. 72-118****Syllabus:**

1. After township zoning regulations have been enacted, any attempt to amend or supplement them should comply with the requirements of R.C. 519.12.

2. Publication of notice at least fifteen days before a hearing by the zoning commission is required under R.C. 519.12. Such notice should set forth the time and place of the hearing, and in your particular situation, should state that the township is being redistricted into fourteen districts and that a comprehensive revision of the regulations is being contemplated. The notice should also contain a statement that, after the hearing, the matter will be referred to the regional planning commission, if one exists, or to the board of township trustees, as the case may be.

3. A mere listing of the proposed amendments would not satisfy the requirement of R.C. 519.12, that a summary of the amendments be included in the notice of hearing before the board of township trustees, since a "summary" is required by the statute, and the listing of all sections of the proposed resolution would not constitute a summary of the same, "reduced to a narrow compass", and a "short, concise, succinct summing up" of the proposed zoning resolutions.

4. The inclusion of the entire resolution with all amendments, in the notice of hearing before the township trustees, would not satisfy the requirement of R.C. 519.12, that there be a summary of the amendments. A brief disclosure, however, of the contents of each of the 162 major sections, if that will apprise the various owners of all further limitations on the use of their land, will satisfy the statutory requirements.

5. Publication of the revised map of the zoning districts before the hearing by the board of trustees is not required under R.C. 519.12. On the other hand, the use of such a map may well facilitate the preparation of a readily understandable summary of the proposed amendments.

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To: David D. Dowd, Stark County Pros. Atty., Canton, Ohio  
By: William J. Brown, Attorney General, December 13, 1972

Your request for my opinion involves a township with existing zoning regulations and a proposal by the zoning commission for a comprehensive revision of the regulations, which will increase the number of districts from three to fourteen. You advise that "The original zoning requirements in the present three districts will not be reflected in any single district to be thus created", and that the definition section in the resolution has been expanded and changed. The procedures and fees are also to be changed and "the new proposed map reflects the addition of the new districts as distinguished from the present map which indicates the land area controlled by the present three districts." I am advised that the present three districts include the entire township and that the proposed fourteen districts will include the same territory.

Your questions are as follows:

1. Must this proposed comprehensive revision of the Township Zoning Resolution be submitted to the voters of the Township under Section 519.11, Ohio Revised Code, for their approval or does the revision constitute amendments or supplements to the zoning resolution which may be processed under Section 519.12, Ohio Revised Code?

2. Would the statutory provisions for published notice under Section 519.12 before the Township Zoning Commission be satisfied by a published notice containing information that the Commission will consider at a stated meeting, proposed supplements to the original resolution and its amendments with their effective dates, which proposed supplements to the resolution relate to changes in the number of the districts, definitions, conditional use permits, administration and fees

and the addition of additional provisions -- there would follow a listing of such additional provisions?

3. Would the statutory requirements for a publication of a summary of the proposed amendment or supplement prior to the hearing before the Township Board of Trustees be satisfied in this factual situation by the listing of the 162 major sections under the proposed revision?

4. Would the statutory requirements for a publication of a summary of the proposed amendment or supplement prior to the hearing before the Township Board of Trustees be satisfied by the entire revised resolution being published or by a brief disclosure of the contents of each of the 162 major sections as they are listed in the newspaper?

5. Would the statutory requirements for a publication of a summary of the proposed amendment or supplement prior to hearing before the Township Board of Trustees require the publication of the revised map indicating the boundary lines of the new districts in addition to the portion of the revised resolution?

Your first question asks whether the proposed resolution constitutes a new zoning plan which must be adopted pursuant to R.C. 519.01 to 519.11, inclusive, or whether it is a revision of the existing regulations which must be adopted pursuant to R.C. 519.12. According to your letter, the resolution provides for a thorough modernization of the rather simple township zoning regulations now in effect.

R.C. 519.01 to 519.11, inclusive, deal with the enactment of original zoning regulations, while R.C. 519.12 provides the only means by which such zoning regulations may be amended or supplemented. The alternative to the amendment procedure of R.C. 519.12 would be to repeal the existing zoning regulations under R.C. 519.25. This would have to be followed by an enactment of the new plan according to R.C. 519.01 to 519.11, inclusive, which would, of course, entail resort to the electorate.

The amendment procedure, provided by R.C. 519.12, reads in part as follows:

Amendments or supplements to the zoning resolution may be initiated by motion of the township rural zoning commission, by the passage of a resolution therefor by the board of township trustees or by the filing of an application therefor by one or more of the owners or lessees of property within the area proposed to be changed or affected by the proposed amendment or supplement with the township zoning commission. \* \* \* The board of township trustees shall upon the passage of such resolution certify it to the township zoning commission.

Upon adoption of such motion, or the

certification of such resolution or the filing of such application the township zoning commission shall set a date for a public hearing thereon, which date shall not be less than twenty nor more than forty days from the date of the certification of such resolution or the date of adoption of such motion or the date of the filing of such application. Notice of such hearing shall be given by the township zoning commission by one publication in one or more newspapers of general circulation in the township at least fifteen days before the date of such hearing.

\* \* \* \* \*

\* \* \* The published and mailed notices shall set forth the time and place of the public hearing, the nature of the proposed amendment or supplement, and a statement that after the conclusion of such hearing the matter will be referred for further determination to the county or regional planning commission and to the board of township trustees as the case may be.

Within five days after the adoption of such motion or the certification of such resolution or the filing of such application the township zoning commission shall transmit a copy thereof together with text and map pertaining thereto to the county or regional planning commission, if there is such a commission.

\* \* \* \* \*

The township zoning commission shall, within thirty days after such hearing, recommend the approval or denial of the proposed amendment or supplement, or the approval of some modification thereof and submit such recommendation together with such application or resolution, the text and map pertaining thereto and the recommendation of the county or regional planning commission thereon to the board of township trustees.

The board of township trustees shall, upon receipt of such recommendation, set a time for a public hearing on such proposed amendment or supplement, which date shall not be more than thirty days from the date of the receipt of such recommendation from the township zoning commission. Notice of such public hearing shall be given by the board by one publication in one or more newspapers of general circulation in the township, at least fifteen days before the date of such hearing.

The published notice shall set forth the time and place of the public hearing and a summary of the proposed amendment or supplement.

\* \* \* \* \*

Such amendment or supplement adopted by the board shall become effective in thirty days after the date of such adoption unless within thirty' days after the adoption of the amendment or supplement there is presented to the board of township trustees a petition, signed by a number of qualified voters residing in the unincorporated area of the township or part thereof included in the zoning plan equal to not less than eight per cent of the total vote cast for all candidates for governor in such area at the last preceding general election at which a governor was elected, requesting the board of township trustees to submit the amendment or supplement to the electors of such area for approval or rejection at the next primary or general election.

\* \* \* \* \*

As is clear from this last paragraph, R.C. 519.12 specifically contains its own provision for a referendum. If a petition requesting a vote is signed by eight per cent of those who cast votes in the last gubernatorial election, the proposal would have to be submitted to the electorate at the next primary or general election. Otherwise, R.C. 519.12, in contrast to R.C. 519.11, does allow a proposal to become effective without a vote.

I am satisfied that the proposed revision constitutes an amendment and that it is controlled by the provisions of R.C. 519.12. Black's Law Dictionary (rev. 4th ed. 1968), defines an amendment as "a change, ordinarily for the better." It defines revision, in relation to legislation, as a "restatement of the law in a corrected or improved form \* \* \* (which) is substituted for and displaces and repeals the former law as it stood relating to the subjects within its purview." R.C. 519.12 provides ample opportunity for those who wish to be heard prior to the final adoption of the amendments.

With respect to your second question, which concerns the notice to be published for the hearing by the township planning commission, R.C. 519.12 specifically requires:

"The published \* \* \* notices shall set forth the time and place of the public hearing, the nature of the proposed amendment or supplement and a statement that after the conclusion of such hearing the matter will be referred for further determination to the county or regional planning commission and to the board of township trustees as the case may be." (Emphasis added.)

The form of notice suggested in your question is sufficiently specific and meets the requirements of R.C. 519.12. The statute seems to be unambiguous and there is no need to resort to the rules of statutory construction. Shaker Heights Public Library v. Main, 83 Ohio App. 415 (1948). It does not require that a summary be published prior to the initial hearing before the township zoning commission, though such a summary must be published prior to the final hearing before the legislative body. The first published notice need do no more than set forth the general nature of the proposed amendments. See Brachfield v. Sforza, 114 N.Y.S. 2d 722, 725 (1952).

Your third and fourth questions concern the legal definition of the word "summary", as used in R.C. 519.12. Identical language in

R.C. 303.12, which provides for amendments to county zoning regulations, has been defined in Seyler v. Clark, 17 Ohio Op. 2d 447 (1961), as "a short, concise, succinct summing up, reduced to a narrow compass." The court said further (at page 449):

When the elements of the published notice are so explicitly detailed in the statute, it becomes a duty upon the Board to exercise care in drafting the notice so that it complies with these mandatory provisions of the law.

\* \* \* \* \*

Needless to say, the purpose of the published notice is to publicly inform those citizens who have an interest in the amendment of the zoning resolution that an amendment or supplement is suggested affecting the present zoning resolution and furthermore, to inform them of the nature, character and purpose of the amendment.

\* \* \* \* \*

It is incomprehensible to this court to expect that thousands of citizens stand in line for hours at an office in the Court House, to determine what the "New B-2 Residence District Resolution" is about, and to determine whether or not their property is affected, and whether or not they should attend the public hearing as advertised.

\* \* \* \* \*

Therefore, a proper summary, as prescribed by law, of the Resolution and its provisions, in the published notice in the newspaper, showing the nature and character and purpose of the new "B-2 Residence District would inform an interested citizen of the content of "B-2" Residence Zoning without any undue inconvenience on his part.

See also Annotation: Zoning Ordinance Notice Requirements, 96 A.L.R.2d 449 (1961); and cf. State, ex rel. Hubbell v. Bettman, 124 Ohio St. 24 (1931).

It is apparent, therefore, that a summary of the resolution to amend zoning regulations must include all essential aspects of the proposed legislation which may affect those who have vested interests in the real property involved. The summary must apprise each owner of the zoning changes which further limit the lawful use of his real property. It must be a condensed version of the zoning resolution.

In answer to your fifth question, there is no specific requirement in R.C. 519.12 that a map be included when the summary is published. The only requirement is that there be a summary of the essential points of all the proposed amendments. However, since, in your case, the number of districts has been increased from three to fourteen, the process of summarization may well be simplified and clarified by use of a map and reference thereto in the summaries of the amendments.

In specific answer to your questions it is my opinion, and you are so advised, that:

1. After township zoning regulations have been enacted, any attempt to amend or supplement them should comply with the require-

ments of R.C. 519.12.

2. Publication of notice at least fifteen days before a hearing by the zoning commission is required under R.C. 519.12. Such notice should set forth the time and place of the hearing, and in your particular situation, should state that the township is being re-districted into fourteen districts and that a comprehensive revision of the regulations is being contemplated. The notice should also contain a statement that, after the hearing, the matter will be referred to the regional planning commission, if one exists, or to the board of township trustees, as the case may be.

3. A mere listing of the proposed amendments would not satisfy the requirement of R.C. 519.12, that a summary of the amendments be included in the notice of hearing before the board of township trustees, since a "summary" is required by the statute, and the listing of all sections of the proposed resolution would not constitute a summary of the same, "reduced to a narrow compass", and a "short, concise, succinct summing up" of the proposed zoning resolutions.

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