

**OPINION 65-45****Syllabus:**

A copy of the rules and regulations provided for in Section 711.09, Revised Code, will be certified to the county recorder after adoption by the legislative authority of the city or village after a public hearing and that such rules or regulations need not be recorded by the county recorder.

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**To: Neil M. Laughlin, Licking County Pros. Atty., Newark, Ohio**  
**By: William B. Saxbe, Attorney General, March 30, 1965**

I am in receipt of your request for my opinion which reads as follows:

"Reference being made to Section 711.09 of the Revised Code, paragraph 5 thereof, it has been brought to my attention that our County Recorder has raised the question as to when and where he will record the rules and regulations provided for in this Section of the Ohio Revised Code. The question is also asked as to when the rules and regulations will be certified to the County Recorder, reference being made to the public hearing, or after the public hearing

The two pertinent paragraphs of Section 711.09, Revised Code, provide as follows:

"The planning commission, platting commissioner, or legislative authority of a village may adopt general rules and regulations governing plats and subdivisions of land falling within its jurisdiction in order to secure and provide for the coordination of the streets within the subdivision with existing streets and roads or with the plan or plats of the municipal corporation, for the proper amount of open spaces for traffic, circulation, and utilities, and for the avoidance of future congestion of population detrimental to the public health or safety but shall not impose a greater minimum lot area than forty-eight hundred square feet. Such rules and regulations may provide for the modification thereof by such planning commission in specific cases where unusual topographical or other exceptional conditions require such modification.

"However, no city or village planning commission shall adopt any rules or regulations requiring actual construction of

streets or other improvements or facilities or assurance of such construction as a condition precedent to the approval of a plat of a subdivision unless such requirements have first been adopted by the legislative authority of the city or village after a public hearing. Such rules and regulations shall be promulgated and published as provided by sections 731.17 to 731.42, inclusive, of the Revised Code, and before adoption a public hearing shall be held thereon and a copy thereof shall be certified by the commission, commissioner, or such legislative authority to the county recorder of the county in which the municipal corporation is located."

You have inquired whether the rules and regulations provided for in this Section will be certified to the county recorder before or after the public hearing mentioned in the Section and when and where the county recorder will record such rules and regulations.

With regard to your first inquiry it is my opinion that a copy of the rules and regulations referred to in the Section must be certified to the county recorder after adoption by the legislative authority of the city or village after a public hearing. By this means of certification, the county recorder is formally notified that the city or village planning commission has complied with the requirements of paragraph 5 of Section 711.09, Revised Code.

I submit that such certification takes place after adoption of the rules and regulations by the legislative authority of the city or village after a public hearing as the purpose of the certification is to inform the county recorder that the city or village has adopted the rules and regulations of the planning commission after a public hearing on said rules and regulations as well as compliance with Sections 731.17 to 731.42, inclusive, of the Revised Code. Until such a certification accompanies a plat which is to be recorded, the county recorder is not under a duty to accept such plat for recordation.

You have also asked when and where the county recorder will record such rules and regulations. I can find no authority for the proposition that the county recorder must record such rules and regulations. The fifth paragraph of Section 711.09, supra, only requires a "certification" to the county recorder. Section 317.08, Revised Code, sets forth the matters which must be recorded by the county auditor and it does not list the rules and regulations in question. Part (D) of Section 317.08 provides:

"(D) A record of plats, in which shall be recorded all plats and maps of town lots, and of the subdivisions thereof, and of other divisions or surveys of lands\* \* \*"

Since there is no legislation authorizing the county recorder to record the rules and regulations herein involved,

I conclude that the recorder has no statutory duty to record same.

In conclusion, it is my opinion and you are advised that a copy of the rules and regulations provided for in Section 711.09, Revised Code, will be certified to the county recorder after adoption by the legislative authority of the city or village after a public hearing and that such rules or regulations need not be recorded by the county recorder