

## OPINION NO. 68-096

## Syllabus:

In the event of a conflict between Sections 519.12 and 5511.01, Revised Code, any action by the board of township trustees to approve a request for a change in zoning may only be taken after the provisions of Section 5511.01, Revised Code, have been complied with.

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To: Marshall E. Peterson, Greene County Pros. Atty., Xenia, Ohio  
By: William B. Saxbe, Attorney General, June 12, 1968

Your letter requests my opinion whether a board of township trustees may approve a zoning change within 20 days of the public hearing as provided by Section 519.12, Revised Code, amended effective May 7, 1968, or must the board defer its approval for a period of 120 days when the land sought to be rezoned falls within the terms of Section 5511.01, Revised Code, amended effective November 14, 1967, which requires a zoning authority to defer approval of any change for a period of 120 days during which time the director of highways shall acquire land needed for highway purposes or notify the zoning authority that he does not wish to acquire the property.

By their terms, both sections set forth mandatory provisions with regard to the time within which a zoning authority may take action to approve an application for a zoning change. Section 519.12, Revised Code, applies generally to all lands subject to the authority of the board of township trustees, whereas Section 5511.01, Revised Code, applies only to those lands within a certain distance of a newly established center line or a highway proposed to be changed. A special statute covering a particular subject matter must be read as an exception to a statute covering the same subject in general terms. State, ex rel. Board of Education v. Schumann, Clerk, 7 Ohio St. (2d), 41 (1966).

It cannot have been the intent of the legislature to authorize a board of township trustees to act within 20 days without regard to Section 5511.01, Revised Code, but to require all other authorities to defer their action for a period of 120 days. It is more reasonable to say that the legislature intended the 120 day provision to apply to all zoning authorities and to toll the time within which these authorities may approve a change pending fulfillment of the provisions of Section 5511.01, Revised Code.

It is my opinion, therefore, and you are advised that in the event of a conflict between Sections 519.12 and 5511.01, Revised Code, any action by the board of township trustees to approve a request for a change in zoning may only be taken after the provisions of Section 5511.01, Revised Code, have been complied with.