Public Health Council with regard to manufactured home parks,[4] and reads, in part, as follows:

> (A)(1) The public health council, subject to Chapter 119. of the Revised Code, shall adopt, and has the exclusive power to adopt, rules of uniform application throughout the state governing the review of plans, issuance of flood plain management permits, and issuance of licenses for manufactured home parks; the location, layout, density, construction, drainage, sanitation, safety, and operation of those parks; blocking and tie-downs of mobile and manufactured homes in those parks; and notices of flood events concerning, and flood protection at, those parks.

R.C. 3733.03(A)(1) requires any person who intends to operate a manufactured home park to secure an annual license to operate the park from the appropriate board of health of the local health district, called the "licensor." *See* R.C. 3733.01(I).[5] No manufactured home park may be maintained or operated without a license. R.C. 3733.03(A)(4). Before issuing a license and annually thereafter, or more frequently if necessary, the licensor must inspect a manufactured home park to monitor compliance with R.C. 3733.01-.08 and the rules adopted thereunder. R.C. 3733.03(B)(1). The licensor may "refuse to grant, may suspend, or may revoke any license granted to any person for failure to comply with sections 3733.01 to 3733.08 of the Revised Code or with any rule adopted by the public health council under section 3733.02 of the Revised Code." R.C. 3733.05. A license must show the maximum number of manufactured homes for which the park is licensed, 6 Ohio Admin. 3701-27-03 (1999-2000 Supp.), and once licensed, an operator of a manufactured home park has "the right to rent or use each lot ... for the parking or placement of a manufactured home, [or] mobile home ... without interruption for any period coextensive with any license or consecutive licenses." R.C. 3733.06(A).

In order to secure and retain a license, the operator of a manufactured home park must ensure it is "remote from public health hazards, is well drained and is not subject to recurring flooding." 6 Ohio Admin. Code 3701-27-07. Indeed, much of the State's regulation of manufactured home parks revolves around flood plain management. *See, e.g.*, R.C. 3733.022-025; 6 Ohio Admin. Code 3701-27-07 through -075; 1991 Op. Att'y Gen. No. 91-028. Regulations adopted by the Public Health Council also govern lot size and placement of the manufactured home on a lot, fire safety, the securing and support of the manufactured homes, specifications for streets, walkways, and parking, water systems, lighting, storm water systems, water and sewer line location, plumbing fixtures, laundry facilities, connections from the homes' drainage system to the sanitary sewer, waste collection, pests, and electrical systems. 6 Ohio Admin. Code 3701-27-08 through -26.

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sanitary code, hearing appeals from decisions made by the Director of Health, and "consider[ing] any matter relating to the preservation and improvement of the public health and advis[ing] the director thereon with such recommendations as it considers wise." *Id. See also* R.C. 3701.341-.344.

[4]A "[m]anufactured home park" is defined for purposes of R.C. Chapter 3733 as "any tract of land upon which three or more manufactured or mobile homes used for habitation are parked, either free of charge or for revenue purposes, and includes any roadway, building, structure, vehicle, or enclosure used or intended for use as a part of the facilities of the park." R.C. 3733.01(A).

[5]A health district must be approved by the Department of Health in order to act as a licensor of manufactured home parks. R.C. 3733.031.

While the Public Health Council, with the assistance of local health authorities, is responsible for inspecting and licensing manufactured home parks, and setting health and safety standards for their operation once licensed, the Director of Health must review and approve plans for development within any part of a manufactured home park.[6] R.C. 3733.021. No person may proceed with development within a manufactured home park until plans for the development have been submitted to, and reviewed and approved by, the Director. *Id.*

Prior to submitting plans to the Director of Health, a developer must have the licensor conduct an evaluation of the proposed location and obtain flood level information to ensure it will be protected from flooding. 6 Ohio Admin. Code 3701-27-06(A) (1999-2000 Supp.). Plans submitted to the Director must be accompanied by written verification from the local fire protection authority that adequate fire protection is provided and fire codes will be met in the construction and operation of the park, and must provide designs for drainage of surface and storm waters, area lighting, the sanitary sewerage and water systems, verification the plans have been approved by the Environmental Protection Agency, the method of storage and collection of solid wastes, and utility distribution plans and connections. 6 Ohio Admin. Code 3701-27-06(B) (1999-2000 Supp.). The plans must also provide the total area of land to be used for park purposes, and the location, numbers, and sizes of lots. *Id.*

B. Authority of Local Zoning Authorities

We turn now to the regulation of manufactured home parks by local zoning authorities.[7] Townships have the statutory authority to adopt zoning codes pursuant to R.C. Chapter 519. R.C. 519.02 reads in part:

> For the purpose of promoting the public health, safety, and morals, the board of township trustees may in accordance with a comprehensive plan regulate by resolution the location, height, bulk, number of stories, and size of buildings and other structures ... percentages of lot areas which may be occupied, set back building lines, sizes of yards, courts, and other open spaces, the density of population, the uses of buildings and other structures ... and the uses of land for trade, industry, residence, recreation, or other purposes in the unincorporated territory of such township, and for such purposes may divide all or any part of the unincorporated territory of the township into districts or zones of such number, shape, and area as the board determines.

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[6]"Development" is defined for purposes of R.C. Chapter 3733 to include "any artificial change to improved or unimproved real estate, including, without limitation, buildings or structures, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials, and the construction, expansion, or substantial alteration of a manufactured home park." R.C. 3733.01(S).

[7]You have specifically mentioned townships and villages in your request for an opinion, and accordingly the analysis will, for ease for discussion, be limited to these political subdivisions. Cities and counties, however, also have zoning powers. The zoning authority of cities is governed by the same constitutional and statutory provisions as those governing village zoning, and county zoning is governed by R.C. Chapter 303.

Once the zoning resolution is adopted by the board of township trustees, it is submitted to the electors residing in the unincorporated area of the township for their approval or rejection. R.C. 519.11.

A village, as a municipality, has both the constitutional and statutory authority to enact a zoning plan. *Pritz v. Messer*, 112 Ohio St. 628, 637, 149 N.E. 30, 33 (1925) (a municipality is "doubly empowered" to enact zoning legislation, "having been given such authority both by the Legislature and by the Constitution"); *Sanders v. Snyder*, 113 Ohio App. 370, 178 N.E.2d 174 (Williams County 1960). It has long been held that a municipality has the authority to enact zoning laws as an exercise of its police power granted under home rule, Ohio Const. art. XVIII, § 3. *See Rispo Realty & Development Co. v. City of Parma*, 55 Ohio St. 3d 101, 564 N.E.2d 425 (1990); *Pritz v. Messer*; *State v. Skilwies*, No. 17077, 1999 Ohio App. LEXIS 20 (Montgomery County Jan. 8, 1999); *Gentzler Tool & Die Corp. v. City of Green*, 113 Ohio App. 3d 489, 681 N.E.2d 467 (Summit County 1996); *City of Pepper Pike v. Landskroner*, 53 Ohio App. 2d 63, 371 N.E.2d 579 (Cuyahoga County 1977).[8] However, as a police power regulation, a municipal zoning ordinance may not conflict with the general laws of Ohio and must, of course, comply with the state and federal constitutions. *See Rispo Realty & Development Co. v. City of Parma; City of Canton v. Whitman*, 44 Ohio St. 2d 62, 337 N.E.2d 766 (1975); *Pritz v. Messer; State v. Skilwies*; *Gentzler Tool & Die Corp. v. City of Green*. The statutory scheme enacted by the General Assembly governing the adoption of a zoning plan by municipalities may be found at R.C. 713.06-.15. *See also Rispo Realty & Development Co. v. City of Parma*.

Local zoning codes may not, as a constitutional matter, apply retroactively to preexisting uses of property, but must provide for the gradual, prospective elimination of nonconforming uses without depriving a property owner of a vested property right. *See City of Akron v. Chapman*, 160 Ohio St. 382, 116 N.E.2d 697 (1953); *State ex rel. Fairmount Center Co. v Arnold*, 138 Ohio St. 259, 34 N.E.2d 777 (1941); *Jackson Township Board of Trustees v. Donrey Outdoor Advertising Co.*, No. 98AP-1326, 1999 Ohio App. LEXIS 4341 (Franklin County Sept. 21, 1999); *City of Kettering v. Lamar Outdoor Advertising, Inc.*, 38 Ohio App. 3d 16, 525 N.E.2d 836 (Montgomery County 1987). This constitutional principle has been codified in the statutes providing for nonconforming use. *See* R.C. 519.19 (townships); R.C. 713.15 (municipal corporations).

II. Authority to Make Nonconforming Use Determinations in the Case of Manufactured Home Parks Rests Exclusively with Local Zoning Authorities

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[8]Both chartered and nonchartered municipalities have the authority under Ohio Const. art. XVIII, § 3 to adopt zoning ordinances that are not in conflict with state general law. *Rispo Realty & Development Co. v. City of Parma*, 55 Ohio St. 3d 101, 564 N.E.2d 425 (1990) (nonchartered); *Gentzler Tool & Die Corp. v. City of Green*, 113 Ohio App. 3d 489, 681 N.E.2d 467 (Summit County 1996) (chartered). *See generally Garcia v. Siffrin Residential Assn*, 63 Ohio St. 2d 259, 407 N.E.2d 1369 (1980); *City of Canton v. Whitman*, 44 Ohio St. 2d 62, 337 N.E.2d 766 (1975); *Pritz v. Messer*, 112 Ohio St. 628, 149 N.E. 30 (1925). However, nonchartered municipalities are bound by statute with respect to the procedure that must be followed for adopting zoning ordinances and thus must comply with R.C. 713.12. *Village of Wintersville v. Argo Sales Co.*, 35 Ohio St. 2d 148, 299 N.E.2d 269 (1973); *Morris v. Roseman*, 162 Ohio St. 447, 123 N.E.2d 419 (1954). *See also Rispo Realty & Development Co. v. City of Parma*.

The State's regulation of manufactured home parks under R.C. 3733.01-.08 and the zoning regulations of local governments are both intended to preserve and promote the public health, safety, and welfare. *See City of Akron v. Chapman*; *City of Kettering v. Lamar Outdoor Advertising, Inc.* While the regulations of R.C. Chapter 3733 certainly help to protect the larger surrounding community, *see Stary v. City of Brooklyn*, 162 Ohio St. 120, 121 N.E.2d 11 (1954); 1977 Op. Att'y Gen. No. 77-038; 1958 Op. Att'y Gen. No. 2111, p. 297, their focus is clearly on protecting the well-being, physical safety, and living conditions of the inhabitants of the park.

In contrast, the focus of a local zoning code is on land use and planning for the welfare of the larger community, regulating either the size and placement of buildings or other structures on property within specified areas, or the use to which the structures and property within specified districts may be put. *See Willott v. Village of Beachwood*, 175 Ohio St. 557, 197 N.E.2d 201 (1964); *Village of Moscow v. Skeene*, 65 Ohio App. 3d 785, 585 N.E.2d 493 (Clermont County 1989); *Hulligan v. Columbia Township Board of Zoning Appeals*, 59 Ohio App. 2d 105, 392 N.E.2d 1272 (Lorain County 1978); 1991 Op. Att'y Gen. No. 91-028. *See also Goldberg Companies, Inc. v. Council of the City of Richmond Heights*, 81 Ohio St. 3d 207, 690 N.E.2d 510 (1998); *City of Akron v. Chapman; Estadt v. Board of Zoning Appeals*, No. 14-97-1, 1997 Ohio App. LEXIS 2800 (Union County June 6, 1997). Provision for nonconforming use is part of a township's or village's zoning code, and determinations of nonconforming use are directly related to enforcement of that zoning code. Thus, such determinations are squarely within the purview of the local zoning authority.

Granted, the language of R.C. 3733.02(A)(1) expansively gives the Public Health Council the "exclusive power to adopt, rules of uniform application throughout the state" governing manufactured home parks, including licensure, location, density, review of plans, layout, and operation of the parks. However, it has been consistently held that the provisions of R.C. 3733.01-.08 do *not* preempt local zoning provisions so long as the local provisions are not in conflict with R.C. 3733.01-.08. *See Mentor Green Mobile Estates v. City of Mentor*, No. 90-L-15-135, 1991 Ohio App. LEXIS 4052 (Lake County Aug. 23, 1991) at *7 n.1 ("[i]t seems apparent that the exclusivity clause was added primarily to dispose of the possible conflict between the State Board of Health and local health boards in the monitoring of mobile home parks"); 1994 Op. Att'y Gen. No. 94-040 at 2-205 (the State's statutory scheme for regulating manufactured home parks and federal safety requirements for the construction of manufactured homes may preempt certain township regulatory powers, but "[t]he preemption of local regulation in these instances does not ... extend to matters of local zoning," and thus a township is not prevented from prohibiting the placement of mobile homes within its boundaries); 1991 Op. Att'y Gen. No. 91-028 at 2-158 ("the exclusive authority of the public health council [under R.C. 3733.02(A)] to regulate the location of manufactured home parks for purposes of health and safety does not preempt local zoning authority over such parks enacted for purposes of land use planning," and a local zoning authority may disapprove a site that has been approved by the Public Health Council); 1981 Op. Att'y Gen. No. 81-097 at 2-367 and 2-368 (R.C. 3733.02 does not "give the Public Health Council the exclusive power to make rules pertaining to house trailer parks, but only the exclusive power to make rules pertaining to house trailer parks which are of *'general application throughout the state,'*" and the Public Health Council does not have "the power to override local zoning concerns, but only the power to exclusively make state-wide rules of general application") (emphasis in original). *See also Davis v. McPherson*, 58 Ohio Op. 253, 132 N.E.2d 626 (App. Summit County 1955), *appeal dismissed*, 164 Ohio St. 375, 130 N.E.2d 794 (1955) (upholding a township zoning ordinance banning trailer parks from the town-

ship, even though plans for a park had been approved by the State and permits had been issued by the county department of health); 1958 Op. Att'y Gen. No. 2111, p. 297.[9]

Even the enactment in 1955 of R.C. 3733.06, *see* 1955-1956 Ohio Laws 740 (Am. H.B. 292, eff. Oct. 5, 1955), which provides a licensed operator of (what was then called) a house trailer park the right to rent or use each lot or space for house trailers "without interruption for any period coextensive with any license or consecutive licenses," was found not to evidence a legislative intent that R.C. 3733.01-.08 preempt the field in reference to house trailer parks. Commenting upon the enactment of R.C. 3733.06,[10] and its effect on *Davis v. McPherson* and other earlier decisions, 1958 Op. Att'y Gen. No. 2111, p. 297, states at 300-301:

> Bearing in mind that the public health council is merely an arm of the state department of health, whose sole function is to conserve the public health, I cannot ascribe to the legislature an intention to make of the health council a zoning board, with power to override the authority of those agencies to which the legislature had long before given explicit authority to enact zoning regulations.
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> ...
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> In my opinion the power given by Section 3733.02 ... to "make *regulations of general application* throughout the state governing the *location*, layout, construction, drainage, sanitation, safety and operation of house trailer parks" was intended to preserve and conserve the health and welfare of the occupants of these house trailers and of the residents of the surrounding community by the adoption of such general regulations, and was never designed to permit the local health board to invade a territory which had been lawfully restricted against such house trailer parks, and to designate a spot where, merely by reason of a license to operate, the trailer park might be placed and, during the period of the license, permitted to remain, regardless of the zoning prohibition. (Emphasis in original.)

In concluding that the Public Health Council and local board of health were without authority to approve the location of a trailer park in a township where a zoning regulation forbade the operation of trailer parks, the opinion notes, "the enactment of [R.C. 3733.06], while it may have been intended to protect a licensee against *unlawful* interference with the enjoyment of his grant, did not have the effect of authorizing the district board of health to grant a license to locate and operate a house trailer park in a district from which such trailer parks had been barred either by municipal ordinance or township zoning regulation"

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[9]At the time *Davis v. McPherson*, 58 Ohio Op. 253, 132 N.E.2d 626 (App. Summit County 1955), *appeal dismissed*, 164 Ohio St. 375, 130 N.E.2d 794 (1955) and 1958 Op. Att'y Gen. No. 2111, p. 297 were rendered, R.C. 3733.02 (former G.C. 1235-1) read as follows: "The public health council ... shall have the power to make regulations to be of general application throughout the state governing the location, layout, construction, drainage, sanitation, safety, and operation of house trailer parks." 1951 Ohio Laws 77 (Am. H.B. 113, eff. Aug. 8, 1951).

[10]1955-1956 Ohio Laws 740 (Am. H.B. 292, eff. Oct. 5, 1955) also enacted R.C. 3733.07 providing that fees charged under R.C. 3733.04 "shall be in lieu of all license and inspection fees on or with respect to the operation or ownership of trailer parks within the state of Ohio."

(emphasis in original). 1958 Op. Att'y Gen. No. 2111, p. 297, at 301.[11] *Cf. Anderson v. Brown*, 13 Ohio St. 2d 53, 233 N.E.2d 584 (1968) (striking down a village ordinance providing for the licensing of trailer parks for a fee as in conflict with R.C. 3733.06); *Noland v. City of Sharonville*, 4 Ohio App. 2d 7, 211 N.E.2d 90 (Hamilton County 1964) (local ordinance requiring licensing and inspection fees for trailer parks, prescribing safety and sanitary regulations, requiring parks to keep records, and giving municipal officers a right of entry for inspection, was legislating in a field preempted by the State and in conflict with R.C. 3733.06 and R.C. 3733.07 so as to be void); 1972 Op. Att'y Gen. No. 72-033 at 2-129 (with R.C. 3733.06 and .07, the State has preempted the regulation of house trailers and trailer parks and a township may not impose its own license tax on owners of trailer parks, although "[i]t is true that the board of trustees of the township may, under its authority to

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[11]The Department of Health contends that the General Assembly, in amending R.C. 3733.02 to include density as a matter which is governed by the Public Health Council, *see* Am. Sub. S.B. 142, 122nd Gen. A. (1998) (eff. March 30, 1999), gave the Public Health Council "clear authority to address park density," which is "directly related to the regulation of lots contained within a manufactured home park."

The Public Health Council, however, has been authorized to regulate "location" under R.C. 3733.02 since 1951 when G.C. 1235-1, the statutory predecessor of R.C. 3733.02, was enacted. *See* 1951 Ohio Laws 77 (Am. H.B. 113, eff. Aug. 8, 1951). Location, like density, is an attribute that is also a proper matter for regulation under a local authority's zoning power. *See, e.g.*, R.C. 519.02. However, this ability has not, according to the authorities discussed above, given the Public Health Council the power to preempt a local jurisdiction's zoning authority.

Like the term, "location," the term, "density," as used in R.C. 3733.02(A), must be read within the full context of the Council's authority to regulate manufactured home parks, which, as described above, emphasizes the living conditions of a park's inhabitants. The Public Health Council has, in fact, adopted rules that may be characterized as relating to park density and that fall squarely within its jurisdiction. *See, e.g.*, 6 Ohio Admin. Code 3701-27-03 (1999-2000 Supp.) (licensure of a park is for a maximum number of manufactured homes); 6 Ohio Admin. Code 3701-27-06 (1999-2000 Supp.) (in its application for approval, a developer must specify, *inter alia*, the total area of land to be used for the park and the location, numbers, and sizes of manufactured home lots); 6 Ohio Admin. Code 3701-27-08 (1999-2000 Supp.) (requirements for lot size and location of homes on lots).

It may be argued that a local zoning authority's position, that a single lot may no longer be rented to the owner of a manufactured home if it remains vacant for a time in excess of that provided by resolution or ordinance, affects density within the park and thus conflicts with the authority of the Public Health Council to regulate density within the park. However, the fact that the Council may set density requirements for the area within the park, which operators must meet in order to be licensed, does not mean that it has the authority to preclude a local authority from finding that a lot within a manufactured home park no longer constitutes a nonconforming use and may no longer be used as a site for another manufactured home. *See also* R.C. 3733.021(F) (approval of plans for development does "not constitute an exemption from the land use and building requirements of the political subdivision in which the manufactured home park" is located). According to the authorities set forth above, the State's licensure function does not empower it to preempt zoning regulations. (Interestingly, the local authority's position could actualiy result in lower density, and thus, more favorable living conditions for park residents than the rules of the Public Health Council.)

adopt zoning regulations, control the *original establishment* of a trailer park" (emphasis in original)).

Thus, the fact that the Public Health Council has the authority to adopt rules governing the operation of manufactured home parks and to license such parks, and may have, in fact, licensed a park within a particular township or village, does not mean that the township or village is precluded from enforcing its zoning regulations with regard to that park. The issue of nonconforming use relates to conformance to the *zoning code*, not conformance to the regulations of the Department of Health and Public Health Council. A manufactured home park is licensed as a whole and enforcement of the State's regulations is tied to such licensure. However, the fact that a park is licensed is immaterial for determining application of the local zoning code. Indeed, the Public Health Council appears to recognize this distinction between its authority and that of local jurisdictions in 6 Ohio Admin. Code 3701-27-06(B)(19) (1999-2000 Supp.), which now requires any person who proposes to develop a manufactured home park to submit to the Director of Health, along with the plans for development, "[w]ritten verification from the local zoning authority that the land use has been zoned and approved for the development of a manufactured home park."[12] *See also* R.C. 3733.021(F) (approval of plans for development does "not constitute an exemption from the land use and building requirements of the political subdivision in which the manufactured home park" is located).

III. Principles that Govern Nonconforming Use Determinations of Local Zoning Authorities

Let us now consider the second question presented by your request, whether a township or village may subject each lot within a manufactured home park to determination that its nonconforming use has been discontinued and may not be reestablished, or whether such determination may only be made with respect to the park as a whole. Resolution of this question requires that we examine the statutory authority of townships and villages with respect to nonconforming use determinations, rulings of the Ohio courts upon the propriety of such determinations, and certain principles of constitutional law that also govern such determinations.

A. Statutory Authority and Controlling Ohio Case Law

[12]This is not to say that the Department's position, that a lot cannot be isolated for treatment from the park as a whole, is inconsistent with the manner in which a manufactured home park is regulated for purposes of R.C. 3733.01-.08. As discussed above, state law provides for licensure of the manufactured home park in its entirety. The operator is licensed for a certain number of lots, and once licensed, the operator is entitled to use each lot for the placement of a manufactured home "without interruption for any period coextensive with" the license. R.C. 3733.06(A). *See* 1977 Op. Att'y Gen. No. 77-038 at 2-134 and 2-135 ("[s]ince all the utilities roadways and common areas are owned and controlled by a single entity, the status of an individual lot [within a house trailer park] is always inextricably related to the total park concept ... the individually owned lots can still function for many practical purposes only as a total development"). *See also* 1991 Op. Att'y Gen. No. 91-020 (the effect of the regulatory scheme of R.C. Chapter 3733 is to impose a requirement that when three or more manufactured homes are located on a tract, the entire tract must be developed as a unit); 1982 Op. Att'y Gen. No. 82-061.

The zoning authority of a township is limited to that conferred by statute.[13] *Yorkavitz v. Board of Township Trustees*, 166 Ohio St. 349, 142 N.E. 2d 655 (1957). R.C. 519.19 addresses the issue of "nonconforming use" with respect to township zoning and reads as follows:

> The lawful use of any dwelling, building, or structure and of any land or premises, as existing and lawful at the time of enactment of a zoning resolution or amendment thereto, may be continued, although such use does not conform with such resolution or amendment, but if any such nonconforming use is voluntarily discontinued for two years or more, any future use of said land shall be in conformity with sections 519.02 to 519.25, inclusive, of the Revised Code. *The board of township trustees shall provide in any zoning resolution for the completion, restoration, reconstruction, extension, or substitution of nonconforming uses upon such reasonable terms as are set forth in the zoning resolution.* (Emphasis added.)

R.C. 519.19 requires townships to include in their zoning codes provision for nonconforming use.[14] *See generally Dorrian v. Scioto Conservancy District*, 27 Ohio St. 2d 102, 271 N.E. 2d 834 (1971) ("shall" indicates that a provision is mandatory). Such provision may not, however, conflict with R.C. 519.19 and must allow for voluntary discontinuation of any nonconforming use for at least two years. *See Donham v. E.L.B., Inc.*, 8 Ohio Misc. 2d 31, 457 N.E.2d 953 (C.P. Clermont County 1983) (a township zoning resolution cannot be more restrictive than R.C. 519.19, and thus cannot provide that any nonconforming use discontinued for only twelve months must be in conformity with the zoning regulations); 1984 Op. Att'y Gen. No. 84-029 (a township zoning resolution that provides a method for termination of a nonconforming use in addition to that provided in R.C. 519.19, voluntary discontinuation for two years or more, is in conflict with R.C. 519.19 and void).

Villages likewise are required to provide for nonconforming use in their zoning codes. Nonconforming use for purposes of village zoning is governed by R.C. 713.15. It is analogous to R.C. 519.19, except for the time period a village must allow for voluntary discontinuation of the nonconforming use. R.C. 713.15 provides that, "if any such nonconforming use is voluntarily discontinued for two years or more, or for a period of not less than six months but not more than two years that a municipal corporation otherwise provides by ordinance," then any future use must be in conformity with applicable zoning restrictions. *See Bell v. Rocky River Board of Zoning Appeals*, 122 Ohio App. 3d 672, 702 N.E.2d 910 (Cuyahoga County 1997).

Although, as discussed above, villages, unlike townships, possess constitutional home rule power, R.C. 713.15 is considered to be a "general law" and any village ordinance

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[13]Townships are authorized to adopt a limited home rule government. R.C. Chapter 504. *See* Am. Sub. H.B. 187, 123rd Gen. A. (1999) (eff. Sept. 20, 1999). However, this opinion is limited to a discussion of the zoning powers of townships that have not done so.

[14]As mentioned above, nonconforming uses must be accommodated by local zoning authorities as a constitutional matter, as well as pursuant to statutory mandate, unless the preexisting use constitutes a nuisance. *See City of Akron v. Chapman*, 160 Ohio St. 382, 116 N.E.2d 697 (1953); *Sun Oil Co. v. City of Upper Arlington*, 55 Ohio App. 2d 27, 379 N.E.2d 266 (Franklin County 1977); *Meuser v. Smith*, 75 Ohio L. Abs. 161, 143 N.E.2d 757 (C.P. Franklin County 1955), *aff'd*, 74 Ohio L. Abs. 417, 141 N.E.2d 209 (App. Franklin County 1956). *See also Kessler v. Smith*, 104 Ohio App. 213, 218, 142 N.E.2d 231, 235 (Cuyahoga County 1957) ("[a] trailer camp or park is not per se a nuisance").