



Township Zoning
Inspectors

Zoning Inspector

Also known as

- ❖ Zoning enforcement officer
- ❖ Zoning Administrator
- ❖ The ONLY person authorized to interpret and enforce the zoning resolution unless upon appeal.
- ❖ Hired (and fired) by township trustees.

Zoning Inspector

Responsible for interpreting and enforcing property zoning regulations and requirements on behalf of the township.

Ohio Revised Code §519.16

- ❖ Ongoing land occupancy/Enforcement - violations
- ❖ New development - permits

Enforcement

It all starts with an inspection and report:

- ❖ Name, address, and telephone of property owner
- ❖ Date of inspection
- ❖ Location of property
- ❖ Zoning violation – cite to the resolution
- ❖ Proof of zoning violation (photos)
- ❖ Potential penalties
- ❖ Right to appeal
- ❖ Zoning inspector's contact information

Enforcement

- ❖ Issue zoning violation
- ❖ File a misdemeanor criminal complaint in county court or municipal court having jurisdiction (with prosecutor or law director assistance)
- ❖ Filing injunctive complaint in Ashtabula County Court of Common Pleas

Right of Entry

- ❖ Go to the residence during daylight hours, knock on the door, identify yourself, and show identification.
- ❖ Advise that you would like to make a site inspection to determine if there is a zoning violation and ask for permission.
- ❖ If owner gives permission, conduct inspection.
- ❖ If owner denies permission, leave the premises and contact the prosecutor's office to inquire about administrative search warrant.
- ❖ Return to premises with warrant and law enforcement to conduct inspection.

Right of Entry

- ❖ Expectation of privacy
- ❖ Pursuant to the fourth amendment to the United States Constitution, a township zoning inspector may not enter and inspect private property without a search warrant where the owner or occupant of the property does not give consent, unless there is an emergency, the property is open to the public, or the industry conducted on the property has a history of government oversight such that no reasonable expectation of privacy exists. (1973 Op. Att'y Gen. No. 73-116, overruled, in part.)
- ❖ A township zoning inspector is not a “[l]aw enforcement officer” under R.C. 2901.01(A)(11) or Ohio R. Crim. P. 2(J).1998 Ohio Op. Att'y Gen. 2-91 (1998)

Search Warrants

Probable cause

- ❖ ORC 2933.21(F) For the existence of physical conditions which are or may become hazardous to the public health, safety, or welfare, when governmental inspections of property are authorized or required by law.
- ❖ ORC 2933.22(B) A warrant of search to conduct an inspection of property shall issue only upon probable cause to believe that conditions exist upon such property which are or may become hazardous to the public health, safety, or welfare.

Enforcement – Criminal Action

§519.23 Prohibition against violating resolution.

No building shall be located, erected, constructed, reconstructed, enlarged, changed, maintained, or used, and no land shall be used in violation of any resolution, or amendment or supplement to such resolution, adopted by any board of township trustees under sections 519.02 to 519.25, inclusive, of the Revised Code. Each day's continuation of a violation of this section may be deemed a separate offense.

Enforcement – Criminal Action

§519.99 Penalty

Whoever violates sections 519.01 to 519.25 of the Revised Code shall be fined not more than five hundred dollars for each offense.

Enforcement – Civil Action

§519.24 Actions instituted to prevent violations of zoning regulations - special counsel.

In case any building is or is proposed to be located, erected, constructed, reconstructed, enlarged, changed, maintained, or used or any land is or is proposed to be used in violation of sections 519.01 to 519.99, inclusive, of the Revised Code, or of any regulation or provision adopted by any board of township trustees under such sections, such board, the prosecuting attorney of the county, the township zoning inspector, or any adjacent or neighboring property owner who would be especially damaged by such violation, in addition to other remedies provided by law, may institute injunction, mandamus, abatement, or any other appropriate action or proceeding to prevent, enjoin, abate, or remove such unlawful location, erection, construction, reconstruction, enlargement, change, maintenance, or use. The board of township trustees may employ special counsel to represent it in any proceeding or to prosecute any actions brought under this section.

Enforcement

Inspection form

Warning letter (courtesy only)

Violation Notice / Stop Work Order

Enforcement

- ❖ Inspection form(s)
- ❖ Name & Address & Owner
- ❖ Date of inspection
- ❖ Corrections required? Yes/No
- ❖ Specification of corrections
- ❖ Date of scheduled re-inspection
- ❖ Date of receipt of inspection report
- ❖ Signature of inspector

Enforcement

Warning letter

- ❖ Courtesy
- ❖ No specific requirements

Enforcement

Violation Notice / Stop Work Order

- ❖ Specify resolution provision
- ❖ Specify facts creating violation
- ❖ Corrective action required
- ❖ Deadline
- ❖ Penalties
- ❖ Right to appeal
- ❖ “If you have any questions about your legal rights, contact your attorney.”
- ❖ Certified mail

Administrative Appeal

Property owner appeals

- ❖ Board of Zoning Appeals
- ❖ Parties are zoning inspector and property owner/person affected
- ❖ Quasi-judicial proceeding
- ❖ Do **NOT** discuss matter with BZA members outside of hearing

Administrative Appeal

Property owner appeals

- ❖ If BZA finds against you...no appeal on substance. Kasper v. Coury, (1990) 51 Ohio St.3d 185.
- ❖ Possible appeal on jurisdiction or improper application of standards. Willoughby Hills v. CC Bar's Sahara, (1992) 64 Ohio St.3d

Administrative Appeal

Property owner appeals to Court of Common Pleas

- ❖ If BZA finds against property owner
- ❖ Zoning Inspector is party
- ❖ May be heard on the record OR may require new hearing
- ❖ If monetary damages are possible – consult with insurance

Civil Court Proceedings

- ❖ No appeal to BZA – violation not corrected
- ❖ Zoning Inspector makes referral to prosecutor's office for injunctive relief
- ❖ Affidavit for verified complaint and all documentation
- ❖ Confidentiality balanced with responsibilities of public office
- ❖ Timeline of court process – injunctive relief schedule – 28 days for answer
- ❖ Update evidence for hearing

Hearing preparation

- ❖ Documents
- ❖ Photographs
- ❖ Witnesses
- ❖ Testimony

Enforcement / Civil Action possible results

- ❖ Default Judgment Entry
- ❖ Agreed Judgment Entry
- ❖ Court Judgment Entry

- ❖ Property owner fails to comply – Charge of Contempt / Motion to Show Cause
 - ❖ First offense – fine
 - ❖ Second offense – jail time

Alternatives to Zoning Enforcement

- ❖ Unsafe structures
- ❖ Junk vehicles
- ❖ Noise
- ❖ Noxious Weeds
- ❖ Other vegetation

New Development

- ❖ Accept, review, and process applications for zoning certificates and to issue zoning certificates when appropriate.
- ❖ Monitor the progress of construction projects to insure on-site compliance.

New Development

Zoning permit

- ❖ Name, address, and telephone of property owner
- ❖ Location of property
- ❖ Proposed use
- ❖ Site plan
- ❖ Signature and date of requestor
- ❖ Signature and date of approval/denial (proof of service)

Zoning Inspector

The township fiscal officer may be appointed secretary of the township zoning commission, secretary of the township board of zoning appeals, and zoning inspector, and the fiscal officer may receive compensation for the fiscal officer's services in addition to other compensation allowed by law.

Ohio Revised Code §519.16

Zoning Inspector

Watch for conflicts of interest.

- ❖ Board of education of local school district with real property in the township. OAG 2008-22
- ❖ County soil and water conservation district administrator where projects located in the township. OAG 2008-22
- ❖ Zoning commission. OAG 1985-52

Zoning Inspector

Tools:

- ❖ Identification
- ❖ Cell phone
- ❖ Tape measure/measuring wheel
- ❖ Digital camera – with date and time set
- ❖ Computer
- ❖ Forms and notebook
- ❖ Pencil or pen

Zoning Inspector

- ❖ Office hours
 - ❖ Voicemail
- ❖ Email address

Zoning Inspector

Record keeping

- ❖ Document every conversation – essence of conversation, date/time, and expectations
- ❖ Records include applications/permits, written correspondence, tax map information, and digital photos
- ❖ File by address, not owner