



H.B. 350

124th General Assembly
(As Introduced)

**Reps. Grendell, Reidelbach, Raga, Collier, Fessler, Schmidt, Young, Webster,
Carano, Distel**

BILL SUMMARY

? Extends the purposes for which a county or township may adopt zoning resolutions to include the purpose of promoting general welfare.

CONTENT AND OPERATION

Currently, the county and township zoning laws permit counties and townships to adopt zoning regulations in accordance with a comprehensive plan. These regulations may deal with the location, height, bulk, number of stories, and size of buildings or other structures; the percentages of lot areas that can 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. The regulations also may divide the zoned territory into districts or zones, but all regulations must be uniform for each class or kind of structure or use throughout any district or zone. Regulations in one district or zone may differ from those in other districts or zones. (Sec. 519.02 (townships); sec. 303.02 (counties), not in the bill.)

The above discussion describes what kind of zoning regulations can be adopted in counties and townships. The statutorily stated *purposes* for which any board of county commissioners or board of township trustees currently can adopt those zoning regulations are ". . . promoting the public health, safety, and morals." (Sec. 519.02; sec. 303.02, not in the bill.)

The bill adds, *for township zoning* purposes only, to this list of purposes-- "for the purpose of promoting the . . . general welfare." Existing law's previously described restrictions on the permissible kinds of township zoning regulations still apply and are not changed by the bill. (Sec. 519.02.)

COMMENT

1. In contrast, the Revised Code permits municipal corporations to adopt zoning regulations "in the interest of" (that is, for the purposes of) "public health, safety, convenience, comfort, prosperity, or general welfare." Under their constitutional home rule powers, though, municipal corporations are not limited to those statutory purposes. (Sec. 713.06, not in the bill.)

2. In addition to their general zoning powers under the Revised Code, counties and townships may create planned unit developments (PUDs) by a zoning resolution. The PUD zoning regulations do not need to be uniform, and innovative plans are encouraged. PUDs currently may be provided for, among other factors, "the purpose of promoting the general public welfare" (Secs. 303.022 and 519.021, not in the bill.)

3. Some appellate court cases have found that a township, under the current statutorily stated purposes for zoning regulations, could not adopt certain zoning regulations that the court implied might have been permissible if one of the statutorily stated purposes of township zoning was to serve the general public welfare. One of those cases involved a township that recognized the importance of a river to the township and created a "river buffer area district" in its zoning code essentially to preserve and conserve the river and associated streams and to prevent erosion.¹ Another case involved a township that increased minimum square footage and lot size requirements in its zoning code to preserve property values.²

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	08-30-01	p. 823

H0350-I.124/jc

¹ *Long v. Bd. of Twp. Trustees, Liberty Twp. (1996), 1996 WL 488026 (Ohio App. 5th Dist.).*

² *Fischer Dev. Co. v. Union Twp. (2000), 2000 WL 525815 (Ohio App. 12th Dist.) (Discretionary appeal to Ohio Sup. Ct. denied (2000), 90 Ohio St.3d 1413).*