



H.B. 119

125th General Assembly
(As Introduced)

Reps. Grendell, McGregor, Hartnett, Schmidt, Otterman, Fessler, Husted, Flowers, Callender, Wagner, Schaffer

BILL SUMMARY

- Extends the purposes for which a county or township may adopt zoning resolutions to include the purpose of promoting general welfare.
- Exempts certain activities related to minerals, coal, oil, and gas from county and township zoning regulations.

CONTENT AND OPERATION

Purpose for county and township zoning regulations

(secs. 303.02 and 519.02)

Current law that governs county and township zoning permits boards of county commissioners and boards of township trustees 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.

The discussion above describes what kind of zoning regulations can be adopted in counties and townships. The *purposes* for which any board of county commissioners or board of township trustees can adopt zoning regulations are ". . . promoting the public health, safety, and morals." The bill adds to this list of purposes--"for the purpose of promoting the . . . general welfare." (See **COMMENT 1 and 2.**)

Exemptions from county and township zoning laws for minerals and oil and gas

(secs. 303.211 and 519.211)

Current county and township zoning laws exempt certain businesses from zoning regulations. Generally, any public utility or the use of land by any public utility for the operation of its business is exempt from county or township zoning, with limited exceptions for telecommunications towers and buildings of public utilities engaged in the business of transporting persons or property not related to farming. The term "public utility" is not defined.

Furthermore, counties and townships cannot prohibit the use of land owned or leased by an industrial firm for oil or natural gas well drilling or production activities, or the location of associated facilities or equipment, when the firm obtains the oil or natural gas for the operation of its own plants. The Oil and Gas Law also prohibits counties and townships from regulating (1) minimum acreage requirements for drilling units, (2) minimum distances from which a new well or related production facilities may be drilled or an existing well deepened, plugged back, or reopened to a source of supply different from the existing pool from boundaries of tracts, drilling units, other wells, streets, roads, highways, and other structures, or (3) the restoration or plugging of an oil and gas well. The only permit counties and townships can require for oil or gas wells are those authorized by the Transportation Law for regulating vehicles that exceed the maximum loads or weights to use roads. (Secs. 303.211(E) and 519.211(E); secs. 1509.39 and 4513.34, not in the bill.)

The bill prohibits counties or townships, except in residential areas, from using zoning to regulate (1) activities allowed under a state permit for oil and gas drilling and coal and other surface mining, (2) the processing or storage of coal or minerals, or (3) the distribution, gathering, storage, or transportation of oil and gas.¹ Counties and townships can continue to issue special road permits granted to them under the Transportation Law for regulating vehicles that exceed the maximum loads or weights to use roads. (Secs. 303.211(E) and 519.211(E).)

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,

¹ State law providing for these permits requires a permit applicant to provide a plan for reclamation of the land. These provisions specifically state as part of the application process that the applicant must comply with local zoning regulations. Those provisions are not changed by the bill. (Secs. 1509.06, 1514.02, and 1514.022, not in the bill.)

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.)

HISTORY

ACTION	DATE	JOURNAL ENTRY
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