

First Reading: 05/16/2023
Second Reading: Dispensed

RESOLUTION NO. 2023 - 035

RESOLUTION INITIATING AMENDMENT TO
THE SYCAMORE TOWNSHIP ZONING RESOLUTION

The Board of Trustees of Sycamore Township, County of Hamilton, Ohio (herein, the "Township"), met in regular session at 8540 Kenwood Road, Cincinnati, Ohio 45236 on May 16, 2023 with the following members present: Tom Weidman and Tom James.

WHEREAS, the Board of Trustees of Sycamore Township, on July 23, 1998, pursuant to Chapter 519 of the Ohio Revised Code, adopted the Sycamore Township Zoning Resolution ("Zoning Resolution") in the interest of the public peace, health, welfare, and safety of the township; and

WHEREAS, Ohio Revised Code § 519.12(A) provides that amendments to the Zoning Resolution and map may be initiated by the passage of a resolution by the Board of Township Trustees; and

WHEREAS, Ohio Revised Code § 519.23 provides that no building shall be located, erected, constructed, reconstructed, enlarged, changed, maintained, or used, and no land shall be used in violation of any resolution, amendment, or supplement to such resolution; and

WHEREAS, Ohio Revised Code § 519.99 provides that whoever violates §§ 519.01 to 519.25 of the Revised Code shall be fined not more than five hundred (500) dollars for each offense; and

WHEREAS, the Board of Trustees desires a text amendment clarifying that violations of the Zoning Resolution are misdemeanor offenses and may be enforced through criminal proceedings, in addition to any other remedy provided by law; and

WHEREAS, the Board of Trustees desires a text amendment recognizing the authority of the Sycamore Township Zoning Inspector to conduct an inspection of a property, when consent to inspect is denied or cannot be obtained, pursuant to a search warrant issued upon probable cause to believe that conditions exist upon a property which are or may become hazardous to the public health, safety, or welfare, in addition to any other remedies provided by law.

NOW, THEREFORE, BE IT RESOLVED that the Board of Trustees of Sycamore Township, Hamilton County, Ohio states as follows:

Section 1. The Board of Trustees, in accordance with Ohio Revised Code, § 519(A)(2), hereby initiates a text amendment to the Zoning Resolution as set forth in **Exhibit A**.

Section 2. The township zoning administrator is hereby directed to certify and deliver a copy of this resolution and related text changes to the Sycamore Township Zoning Commission (“Zoning Commission”).

Section 3. At the next meeting after certification, the Zoning Commission may transmit a copy of the certification of the resolution, together with the related text changes, to the Hamilton County Regional Planning Commission.

Section 4. The Zoning Commission shall set a date for public hearing not less than (20) days nor more than (40) days from the date of certification and shall provide proper notice for this public hearing as required by Ohio Revised Code §§ 519.12(A)(2) and (D).

Section 5. The Zoning Commission, within thirty (30) days after the public hearing, shall recommend the approval or denial of the proposed amendment, or the approval of some modification of it, and submit that recommendation, together with the resolution and the text and map pertaining to the proposed amendment, to the Board of Trustees.

Section 6. Upon receipt of the recommendation and materials from the Zoning Commission, the Board of Trustees shall set a time for a public hearing on the proposed amendment not more than thirty (30) days from the date of the receipt of the recommendation of the Zoning Commission. Proper notice of the hearing must also be sent by the Board of Trustees as required by Ohio Revised Code §§ 519.12(E)(3) and (G).

Section 7. The Board of Trustees shall then hold a public hearing and shall adopt or deny the recommendations of the Zoning Commission or adopt some modification of it within twenty (20) days. In the event the Board of Trustees denies or modifies the recommendation of the Zoning Commission, the unanimous vote of the Board shall be required.

Section 8. Should the Board of Trustees adopt the text amendment, the zoning amendment shall become effective thirty (30) days after the date of its adoption.

Section 9. It is hereby found and determined that all formal actions of the Board of Trustees concerning and relating to the passage of this Resolution were taken in meetings open to the public, in compliance with all legal requirements including §121.22 of the Ohio Revised Code.

Section 10. The Board of Trustees, upon at least a majority vote, dispense with any requirement that this Resolution be read on two separate days, and hereby authorize the adoption of this Resolution upon its first reading.

VOTE RECORD:

Mr. Weidman Aye Mr. James Aye Ms. Schwegmann Absent

Passed at a meeting of the Board of Township Trustees of Sycamore Township this 16th
day of May 2023.

Absent

Tracy Schwegmann, Chairman

Thomas J. Weidman, Vice Chairman

Thomas C. James Jr., Trustee

AUTHENTICATION

This is to certify that this is a resolution which was duly passed, and filed with the Sycamore Township Fiscal Officer this 16 day of MAY 2023.

Jonathan T. Deters
Sycamore Township Fiscal Officer

APPROVED AS TO FORM:

L. E. Barbieri
Lawrence E. Barbieri, Township Law Director

EXHIBIT A

1. The Sycamore Township Zoning Resolution shall be amended as follows:

(a) Section 13-17.3 “Revocation of Zoning Certificate/Sign” shall be amended as to include the italicized and underlined language and removal of the stricken language:

“13-17.3 Revocation of Zoning Certificate/Sign

(a) Procedure. All rights and privileges acquired under the provisions of this Chapter 13 are mere licenses, revocable by the Board of Zoning Appeals in accordance with the *provisions of Chapter 24.* ~~following procedure:~~

~~(a) Time Limit and Options.~~ A person or entity assessed of a penalty pursuant to Chapter 24 must select one of the following options within thirty (30) days after receipt of citation:

~~(1) Abatement of the violation and tender to the Administrative Official full payment of the civil penalty for each day that any violation continues after receipt of citation; or~~

~~(2) Submit in writing to the Administrative Official a request for an administrative hearing before the Board of Zoning Appeals specifying the factual or legal issues to be contested. Timely submission of such request shall abate the imposition of any penalty.~~

~~(b) Effect of Administrative Hearing.~~ If the alleged violator requests an administrative hearing, no further demand for payment will be made by the Administrative Official unless a final decision is made by the Board of Zoning Appeals which upholds the assessment of a penalty. An administrative hearing before the Board of Zoning Appeals shall be conducted pursuant to the Rules of Procedure for the Board.

~~(c) Appeal.~~ Any person or entity who is aggrieved by a final decision of the Board of Zoning Appeals may appeal to the Court of Common Pleas of Hamilton County.

~~(d) (b) Fee.~~ A fee equal to double that required by Section 20-1.3 shall be charged for Zoning Certificates issued pursuant to Section 13-4 following the location, construction, re-construction, enlargement, structural alteration or changing the sign without obtaining a zoning certificate.”

(b) Section 16-5.3 “Schedule of the Sycamore Township Zoning Commission Meeting and Zoning Commission Hearing” shall be amended as to include the italicized and underlined language and removal of the stricken language:

“16-5.3 Schedule of the Sycamore Township Zoning Commission Meeting and Zoning Commission Hearing

Within five (5) days after the adoption of a motion by the Sycamore Township Zoning Commission, certification of resolution by the Board of Township Trustees or the acceptance of an application to be complete pursuant to Chapter 20, the Sycamore Township Zoning Commission: ~~shall~~:

(a) may transmit a copy, together with the related text map and changes, to the Hamilton County Regional Planning Commission; and

(b) shall set a date for a public hearing not less than twenty (20) days from the date of initiation of the amendment by motion, certification, or the filing of an application and provide notice of such hearing pursuant to Section 16-7.

(c) Section 24-3.3 "Citation" shall be amended as to include the italicized and underlined language and removal of the stricken language:

"24-3.3 Citation

If no action is taken within the time period allowed for correction, cessation, or appeal to the Board of Zoning Appeals, a misdemeanor citation shall be issued. ~~The violator shall within twenty (20) days pay the citation to the Clerk of Courts or the matter will be scheduled for court hearing.~~ If no action is taken after a misdemeanor citation is issued, within these twenty (20) days, additional citations may be issued each day the violation remains in noncompliance. Each day the violation occurs after the citation is issued is a separate offense."

(d) Section 24-3 "Procedures Upon Discovery of Violations" shall be amended to add a new Section 24-3.5 as follows:

"24-3.5 Right of Entry

When making an inspection to enforce the provisions of this Resolution, the Zoning Inspector or Administration Official shall carry proper identification.

The owner, occupant, tenant, or person in charge of the property or rental unit has the right to deny entry to any property or unit by the Zoning Inspector or Administration Official for the purpose of compliance with this Resolution. Nothing in this Resolution shall prohibit the Zoning Inspector or Administration Official from asking permission from an owner, occupant, tenant, or person in charge of the property or rental unit for permission to inspect such property or rental unit for compliance with this Resolution and all other applicable laws, regulations, and codes.

If permission is refused, or permission cannot be obtained after a reasonable effort is made to locate the owner, occupant, tenant, or person in charge of the property or unit, nothing in this Resolution shall prohibit the Zoning Inspector from seeking a search warrant from a court of competent jurisdiction based upon probable cause. All inspections made pursuant to a search warrant shall be executed at a reasonable time and in a reasonable manner.

(e) Section 24-4 “Penalties and Remedies for Violations” shall be amended as to include the italicized and underlined language and removal of the stricken language:

“24-4.1 Civil-Penalty and Appeals

(a) No building shall be located, erected, constructed, reconstructed, enlarged, changed, maintained, or used, and no land shall be used, in violation of this Resolution or any amendment or supplement thereto.

(b) Any act constituting a violation of the provisions of this Resolution or a failure to comply with any of its requirements, including violations of any conditions and safeguards established in connection with the grants of variances or Conditional Use Zoning Certificates or Zoning Compliance Plan approval, shall subject the offender to a ~~civil~~ misdemeanor citation and penalty. A ~~civil~~ misdemeanor citation and penalty may not be appealed to the Board of Zoning Appeals if the offender was sent a final notice of violation in accordance with Section 24-3 and did not appeal to the Board of Zoning Appeals within the prescribed time.

(c) Any owner, occupant, person, or entity violating any regulation, provision, amendment, or supplement to this Zoning Resolution, or failing to obey any lawful order of the Sycamore Township Zoning Administrator issued pursuant thereto, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$500.00 or the maximum amount allowed by the Ohio Revised Code. Each and every day during which such illegal location, erection, construction, reconstruction, enlargement, change, maintenance, or use continues may be deemed a separate offense.

(f) Section 24-4.2 “Other Enforcement Actions” shall be amended as to include the italicized and underlined language and removal of the stricken language:

“24-4.2 Other Enforcement Actions

~~This Resolution may also be enforced by any appropriate equitable action.~~

In the event that any structure, building, or other construct 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 Ohio Revised Code, or in violation of this Zoning Resolution, the Board of Trustees, the Township Law Director or his/her designee, the Hamilton County Prosecuting Attorney, the Zoning Administrator, 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 an 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 Trustees may employ special counsel to represent it in any proceedings or to prosecute any actions brought under this section.”