

519.21 Powers not conferred on township zoning commission by chapter.

(A) Except as otherwise provided in divisions (B) and (D) of this section, sections 519.02 to 519.25 of the Revised Code confer no power on any township zoning commission, board of township trustees, or board of zoning appeals to prohibit the use of any land for agricultural purposes or the construction or use of buildings or structures incident to the use for agricultural purposes of the land on which such buildings or structures are located, including buildings or structures that are used primarily for vinting and selling wine and that are located on land any part of which is used for viticulture, and no zoning certificate shall be required for any such building or structure.

(B) A township zoning resolution, or an amendment to such resolution, may in any platted subdivision approved under section 711.05, 711.09, or 711.10 of the Revised Code, or in any area consisting of fifteen or more lots approved under section 711.131 of the Revised Code that are contiguous to one another, or some of which are contiguous to one another and adjacent to one side of a dedicated public road, and the balance of which are contiguous to one another and adjacent to the opposite side of the same dedicated public road regulate:

(1) Agriculture on lots of one acre or less;

(2) Buildings or structures incident to the use of land for agricultural purposes on lots greater than one acre but not greater than five acres by: set back building lines; height; and size;

(3) Dairying and animal and poultry husbandry on lots greater than one acre but not greater than five acres when at least thirty-five per cent of the lots in the subdivision are developed with at least one building, structure, or improvement that is subject to real property taxation or that is subject to the tax on manufactured and mobile homes under section 4503.06 of the Revised Code. After thirty-five per cent of the lots are so developed, dairying and animal and poultry husbandry shall be considered nonconforming use of land and buildings or structures pursuant to section 519.19 of the Revised Code.

Division (B) of this section confers no power on any township zoning commission, board of township trustees, or board of zoning appeals to regulate agriculture, buildings or structures, and dairying and animal and poultry husbandry on lots greater than five acres.

(C) Such sections confer no power on any township zoning commission, board of township trustees, or board of zoning appeals to prohibit in a district zoned for agricultural, industrial, residential, or commercial uses, the use of any land for:

(1) A farm market where fifty per cent or more of the gross income received from the market is derived from produce raised on farms owned or operated by the market operator in a normal crop year. However, a board of township trustees, as provided in section 519.02 of the Revised Code, may regulate such factors pertaining to farm markets as size of the structure, size of parking areas that may be required, set back building lines, and egress or ingress, where such regulation is necessary to protect the public health and safety.

(2) Biodiesel production, biomass energy production, or electric or heat energy production if the land on which the production facility is located qualifies as land devoted exclusively to agricultural use under sections 5713.30 to 5713.37 of the Revised Code for real property tax purposes. As used in division (C)(2) of this section, "biodiesel," "biomass energy," and "electric or heat energy" have the same meanings as in section 5713.30 of the Revised Code.

(3) Biologically derived methane gas production if the land on which the production facility is located qualifies as land devoted exclusively to agricultural use under sections 5713.30 to 5713.37 of the Revised Code for real property tax purposes and if the facility that produces the biologically derived methane gas does not produce more than seventeen million sixty thousand seven hundred ten British thermal units, five megawatts, or both.

(4) Agritourism. However, a board of township trustees, as provided in section 519.02 of the Revised Code, may regulate such factors pertaining to agritourism. except farm markets as described in division (C)(1) of this

section, as size of a structure used primarily for agritourism. size of parking areas that may be required, setback building lines for structures used primarily for agritourism. and egress or ingress where such regulation is necessary to protect public health and safety.

Nothing in division (C)(4) of this section confers power on a township zoning commission, board of township trustees, or board of zoning appeals to require any parking area to be improved in any manner, including requirements governing drainage, parking area base, parking area paving, or any other improvement.

Nothing in division (C)(4) of this section confers power on a township zoning commission, board of township trustees, or board of zoning appeals to prohibit the use of any land or the construction or use of buildings or structures that are used primarily for vinting and selling wine that are located on land any part of which is used for viticulture as provided in division (A) of this section.

(D) [Amended by 131st General Assembly File No. TBD, SB 75]

(1) As used in division (C)(3) of this section, "biologically derived methane gas" has the same meaning as in section 5713.30 of the Revised Code.

(2) As used in division (C)(4) of this section, "agritourism" has the same meaning as in section 901.80 of the Revised Code.

(D) [Added by 131st General Assembly File No. TBD, HB 523] Nothing in this section prohibits a township zoning commission, board of township trustees, or board of zoning appeals from regulating the location of medical marijuana cultivators, processors, or retail dispensaries or from prohibiting such cultivators, processors, or dispensaries from being located in the unincorporated territory of the township.

Amended by 131st General Assembly File No. TBD, HB 523, §1, eff. 9/8/2016.

Amended by 131st General Assembly File No. TBD, SB 75, §1, eff. 8/16/2016.

Amended by 129th General Assembly File No. 82, HB 276, §1, eff. 6/4/2012.

Effective Date: 03-30-1999