


Township Property Tax Levy and Collection Overview

Ohio Township Association
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Constitutional Principles

- Article XII, Section 2 of the Ohio Constitution
 - Uniformity of taxation - tax rate must be uniform across each taxing district, including levies confined to just an unincorporated part of a township (e.g. a road district or a police district).
 - Up to ten mills of property tax may be levied on an unvoted basis. In most taxing districts, the full ten mills is levied annually.
 - Levies in excess of the ten-mill limitation must be voted.

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No Home Rule

- Unlike municipalities, Ohio townships do not have constitutional "home rule" power.
 - Ohio Revised Code ("ORC") Chapter 504 does allow for qualifying townships to adopt a limited home rule government.
- As a creature of statute, a township only has such authority to levy taxes and borrow money as is specifically granted in Ohio law.

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Voted Property Tax Levy 

- ORC § 5705.19 permits a Board of Township Trustees to submit to the voters a property tax levy that specifies a rate of millage.
- Voted rate and renewals or replacements thereof are subject to the reduction factor of ORC § 319.301 (H.B. 920).
- After approval, the township will only benefit from new construction and not from the inflationary growth of its tax base over the life of the levy.

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Levy Purposes 

- A voted property tax levy under ORC § 5705.19 may be for any of the following purposes:
 1. Current expenses of the township
 - Funds a township's general fund and can be used for any purpose.
 2. A public library of or supported by the township
 3. For a municipal university, not to exceed two mills over the limitation of one mill prescribed in ORC § 3349.13

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Levy Purposes (cont.) 

4. For a specific permanent improvement or class of permanent improvements that a township may include in a single bond issue
 - ORC § 5705.01 defines "permanent improvement" as any capital asset with a useful life, as determined by the fiscal officer, of five years or more.
5. General construction, reconstruction, resurfacing, and repair of streets, roads, and bridges
 - Streets, roads and bridges may be combined with sidewalks, trails and bicycle paths.

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Levy Purposes (cont.) 

6. Parks and recreational purposes


- May be combined with greenspace.

7. **Fire** – a township may place any or all of the purposes in this division on the ballot:

- For providing and maintaining fire apparatus, mechanical resuscitators, underwater rescue and recovery equipment, or other fire equipment and appliances, buildings and sites therefor, or sources of water supply and materials therefor, for the establishment and maintenance of lines of fire-alarm communications, for the payment of firefighting companies or permanent, part-time, or volunteer firefighting, emergency medical service, administrative, or communications personnel to operate the same, including the payment of any employer contributions required for such personnel under ORC § 145.48 or § 742.34, for the purchase of ambulance equipment, for the provision of ambulance, paramedic, or other emergency medical services operated by a fire department or firefighting company, or for the payment of other related cost. (see R.C. § 5705.19(I))

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Levy Purposes (cont.) 


8. **Police** – a township may place any or all of the purposes in this division on the ballot:

- For providing and maintaining motor vehicles, communications, other equipment, buildings, and sites for such buildings used directly in the operation of a police department, for the payment of salaries of permanent or part-time police, communications, or administrative personnel to operate the same, including the payment of any employer contributions required for such personnel under section ORC § 145.48 or § 742.33, for the payment of the costs incurred by townships as a result of contracts made with other political subdivisions in order to obtain police protection, for the provision of ambulance or emergency medical services operated by a police department, or for the payment of other related costs. [emphasis added] (see R.C. § 5705.19(J))

9. For any or all of the fire, police and emergency medical purposes set forth in the preceding sections 7 and 8 (see ORC § 5705.19(JJ), which authorizes any combination of purposes from ORC §§ 5705.19(I) and (J))

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Levy Purposes (cont.) 

10. Providing for flood defense, providing and maintaining a flood wall or pumps, and other purposes to prevent floods


11. Maintaining and operating sewage disposal plants and facilities

12. For the prevention, control, and abatement of air pollution

13. Maintaining and operating cemeteries

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Levy Purposes (cont.) 

14. Providing ambulance service, emergency medical service, or both
15. Providing for the collection and disposal of garbage or refuse, including yard waste
16. Providing or maintaining senior citizens services or facilities as authorized by ORC §§ 307.694, 307.85, 505.70, 505.706, or 717.01(EE)
17. For the maintenance and operation of a free public museum of art, science, or history

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Levy Purposes (cont.) 

18. For the establishment and operation of a 9-1-1 system, as defined in ORC § 128.01
19. For the purpose of acquiring, rehabilitating, or developing rail property or rail service (with "rail property" and "rail service" having the same meanings as in ORC § 4981.01)
20. For the purpose of acquiring property for, constructing, operating, and maintaining community centers as provided for in ORC § 755.16

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Levy Purposes (cont.) 

21. For the purpose of acquiring, establishing, constructing, improving, equipping, maintaining, or operating, or any combination of the foregoing: a township airport, landing field, or other air navigation facility pursuant to ORC § 505.15
22. For the purpose of costs incurred by a township as a result of a contract made with a county pursuant to ORC § 505.263 in order to pay all or any part of the cost of constructing, maintaining, repairing, or operating a water supply improvement

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Levy Purposes (cont.) 

23. For a Board of Township Trustees to acquire, other than by appropriation, an ownership interest in land, water, or wetlands, or to restore or maintain land, water, or wetlands in which the Board has an ownership interest, not for purposes of recreation, but for the purposes of protecting and preserving the natural, scenic, open, or wooded condition of the land, water, or wetlands against modification or encroachment resulting from occupation, development, or other use, which may be styled as protecting or preserving "greenspace" in the resolution, notice of election, or ballot form. Except as otherwise provided in this division, land is not acquired for purposes of recreation, even if the land is used for recreational purposes, so long as no building, structure, or fixture used for recreational purposes is permanently attached or affixed to the land. Except as otherwise provided in this division, land that previously has been acquired in a township for these greenspace purposes may subsequently be used for recreational purposes if the Board of Township Trustees adopts a resolution approving that use and no building, structure, or fixture used for recreational purposes is permanently attached or affixed to the land. The authorization to use greenspace land for recreational use does not apply to land located in a township that had a population, at the time it passed its first greenspace levy, of more than 38,000 within a county that had a population, at that time, of at least 860,000.

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Levy Purposes (cont.) 


24. For constructing, rehabilitating, repairing, or maintaining sidewalks, walkways, trails, bicycle pathways, or similar improvements, or acquiring ownership interests in land necessary for the foregoing improvements

- Sidewalks, trails and bicycle paths may be combined with streets, roads and bridges

25. For acquiring agricultural easements, as defined in ORC § 5301.67, and to supervise and enforce the easements

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Levy Purposes (cont.) 


26. For any combination of the following purposes: (1) the acquisition, construction, improvement, or maintenance of buildings, equipment, and supplies for police, firefighting, or emergency medical services; (2) the construction, reconstruction, resurfacing, or repair of streets, roads, and bridges; or (3) for general infrastructure projects (see R.C. § 5705.19(ZZ), which was recently added effective 3/22/2019).

- May be levied for any number of years up to ten, which is an exception to the five-year general limitation.

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Levy Term




- Unless an exception applies, the general rule is that the proceeding categories of township levies may be for any number of years not exceeding five (or 10 years for infrastructure levies under R.C. § 5705.19(ZZ)).
- Levies for the following purposes may be for any number of years not exceeding five or for a continuing period of time:
 1. Fire and/or emergency medical and/or other related costs (see R.C. § 5705.19(I));
 2. Police and/or emergency medical and/or other related costs, including the payment of costs incurred by Townships as a result of contracts made with other political subdivisions in order to obtain police protection (see R.C. § 5705.19(J));
 3. For any or all of the fire and polices purposes set forth in R.C. § 5705.19(I) and (J) (see R.C. § 5705.19(JJ)); and
 4. Ambulance and/or emergency medical (see R.C. § 5705.19(U)).

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Levy Term (cont.)




- Levies for the following purposes may be for any specified number of years or for a continuing period of time:
 1. Public library;
 2. Streets, roads and bridges;
 3. Parks and recreational purposes;
 4. Cemeteries;
 5. Rail property or rail service; and
 6. (i) streets, roads and bridges, combined with (ii) sidewalks, walkways, trails, bicycle paths, and similar improvements, including acquiring land for such walkways and paths.

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Election Proceedings




The procedural steps to place a levy under ORC § 5705.19 on the ballot are as follows:

Resolution of Necessity

- The Board of Township Trustees (1) declares the necessity of the levy and the specific purpose; (2) specifies whether the levy is additional, renewal or replacement, or a renewal or replacement with an increase or decrease; (3) states the ORC section authorizing submission; (4) specifies the term of years of the levy or that it will be for a continuing period of time; (5) states that the tax will be levied upon the entire territory of the township or, if authorized by the ORC, describes the portion of the territory of the township in which the tax will be levied; (6) specifies the election date; (7) states that the ballot measure shall be submitted to the entire territory of the township or, if authorized by the ORC, describes the portion of the territory of the township to which the ballot measure shall be submitted; (8) states the tax year in which the tax will first be levied and the calendar year in which the tax will first be collected; (9) states the millage rate of the levy (expressed in mills for each one dollar of tax valuation); and (10) requests that the County Auditor certify as to the total current tax valuation of the township and the amount of revenue that would be generated by the specified number of mills.
- Two-thirds vote of all members of the Board of Township Trustees is required.

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Election Proceedings (cont.) 


County Auditor's certification – under ORC § 5705.03, the County Auditor determines the total current tax valuation and the dollar amount of revenue the levy will generate in the first year of collection

Resolution to Proceed

- The Board of Township Trustees (1) determines to proceed with the levy; (2) reiterates much of the information about the levy that was set forth in the Resolution of Necessity; and (3) provides the ballot form, including specific language if imposed in the current tax year, e.g. "commencing in _____, first due in calendar year _____"
- Two-thirds vote of all members of the Board of Township Trustees required.

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Election Considerations 

- All three of the foregoing documents (the Resolution of Necessity, the County Auditor's certification, and the Resolution to Proceed) must be certified to the Board of Elections not less than 90 days prior to the date of the election.
- It is always recommended that this filing be done in person at the office of the Board of Elections.
- ORC § 3501.01 provides that election dates generally are the first Tuesday after the first Monday in May (Primary), August, and November (General), or March (Primary), August, and November (General) in presidential election years. Note that the May election in an odd-numbered year could be a special rather than a primary election if there are no contested candidate races.

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Anticipatory Notes 

- ORC § 5705.191 provides for the issue and sale of tax anticipation notes following voter approval of the new levy.
- For current expense purposes, the maximum amount available to be borrowed by the Board of Township Trustees is 50% of the estimated proceeds of the levy throughout the term of the levy. *Such a borrowing against a current expense levy must be done prior to the time when the first tax collection from the levy can be made.*
- For a continuing levy, the maximum amount available to be borrowed is 50% of the levy's proceeds over a maximum of 10 years, less any amount previously anticipated by a borrowing.
- For a levy for a fixed period not for current expenses, the maximum amount available to be borrowed is 50% of the levy's proceeds throughout the remaining life of the levy, less any amount previously anticipated.

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Renewal Levies




- An existing levy under ORC § 5705.19 may be renewed in whole or in part, or coupled with an increase, at the general election prior to the last year of collection or at any election in the last year of collection.
- A time-limited levy may be renewed for a continuing period of time if the original purpose qualified for a continuing term.
- A renewal levy reimposes the effective rate of the existing levy.

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Replacement Levies




- Under ORC § 5705.192, an existing levy may be replaced in whole or in part, or coupled with an increase,
 - for levies with a fixed term of years, at the general election prior to the last year of collection or at any election in the last year of collection, and
 - for continuing levies, at any election in any year after the year in which the levy to be replaced is first approved, provided that only one election on the question of replacing the continuing levy may be held during any calendar year.
- A time-limited levy may be replaced for a continuing period of time if the original purpose qualified for a continuing term.
- A replacement levy reimposes the voted rate of the existing levy, subject to the reduction factor of ORC § 319.301 in the first year just as a new levy would be.

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Supplemental Tax Levy



- ORC § 5705.191 also permits the Board of Township Trustees to submit to the voters a property tax levy that specifies a rate of millage in the same way as ORC § 5705.19.
- Purposes:
 - Any of the foregoing purposes permitted under ORC § 5705.19.
 - Supplementing the general fund for appropriations for one or more of the following: public assistance; human or social services; relief; welfare; hospitalization; health; and support of general hospitals.

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Supplemental Tax Levy (cont.) 

- Term:
 - A levy to supplement the general fund may not be for a period longer than 10 years.
 - All other levies may not be for longer than five years, unless a longer period is permitted under ORC § 5705.19.
- Election proceedings - The procedural steps are similar to those for a levy under ORC § 5705.19, except only one special election for the submission of such question may be held in a calendar year and a special election may be held on the same day a primary is held.
- Rule for renewals, replacements, and anticipatory notes are all similar to levies under ORC § 5705.19.

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Rollbacks 

- Rollback defined – Ohio reimburses political subdivisions for real property taxes as follows:
 1. Non-Business Credit – 10% reduction in tax for residential and agricultural property
 2. Owner Occupancy Credit – an additional 2.5% reduction in tax for owner-occupied residential property
- “Qualifying levies” – the following levies will not qualify for rollback reimbursement after September 29, 2013:
 1. New levies approved by the voters
 2. Replacement levies
 3. The increase portion of a renewal levy combined with an increase

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Advances 

- Under ORC § 321.34, a Board of Township Trustees may request advance payment of taxes collected and held by the County Treasurer pending final settlement.
- Such requests must be made by resolution certified to the County Auditor.

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Collections & Delinquencies 

- Payment of Taxes – ORC § 323.12 provides that property taxes are to be paid either in full on or before December 31 or one-half of the current taxes (together with all delinquent taxes) by December 31 and the remaining half on or before June 20.
- Delinquency Procedures – property tax delinquency procedures under Ohio law vary in implementation amount Ohio counties. Generally, if real estate taxes and special assessments are not paid in the year in which they are due, they are to be certified by the County Auditor's office as delinquent to the County Treasurer and the County Prosecutor. If the property owner so requests, a payment plan is arranged with the County Treasurer. If such a payment plan is not adhered to or none is arranged, foreclosure proceedings may be initiated by the county. Proceeds from foreclosure sales of delinquent property become part of the current collection and are distributed as current collections.

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Reductions 

- The ability of township electors to propose change by petition is extremely limited, particularly when viewed in comparison to the myriad of taxpayer-driven municipal proposals permitted by statute or charter.
- The ORC uses varying terminology in its discussion of taxpayer action by petition, including "initiative," "referendum" and the descriptive word "repeal." However, for clarity and ease of discussion, voter actions to reduce tax levies by petition are referred to here as reductions.

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Reductions 

- ORC §§ 5705.19 and 5705.261 set forth the procedure for initiating a decrease of a property tax levy that was approved for a continuing period of time for the following township purposes:
 1. Streets, roads and bridges;
 2. Fire and/or emergency medical;
 3. Police and/or emergency medical; and
 4. Ambulance and/or emergency medical.
- ORC § 5705.19 does not provide for a similar petition process for electors to reduce a non-continuing levy that was approved for a specified period of years for the same listed purposes.

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Reduction Petitions




Petition requirements:

1. The petition must propose the question of decreasing (not eliminating) the increased rate of a property tax levy.
2. The petition must state the amount of the proposed decrease in the property tax levy.
3. The petition must be signed by "qualified electors" equal in number to at least 10% of the votes cast in the Township for the governor at the most recent election for the governor's office.
4. The petition must then be filed with the county board of elections at least 90 days before the general (November) election.

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Reduction Petitions




Petition procedures:

- If the county board of elections determines that the petition is valid and proper in all respects, the board of elections must place the issue on the ballot at the next general election.
- The county board of elections submits a proposed form of the ballot to the Secretary of State, and the form of the ballot is then approved or denied.

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Reduction Petitions




Petition procedures:

- If the reduction in a property tax levy is approved, the County Auditor must begin collecting the levy at the reduced rate *after the current tax year*.
- This means that a reduction in a property tax levy will not go into effect until a year after the election where it was reduced.
- Exception – if notes have been issued in anticipation of the collection of a property tax levy that is subsequently reduced by referendum, the County Auditor must continue to levy and collect such amounts as will be sufficient to pay the principal of and interest on such anticipation notes as they come due. The remainder of the property tax levy is reduced.

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Reduction Petitions




Petition procedures:

- Only one such petition to reduce a property tax levy may be filed during each five-year period following the election at which the levy was approved.
 - Because of this restriction, some political subdivisions have initiated levy reductions as a defensive measure.
 - For example, a township might circulate a petition to reduce a property tax levy by .000001 mills. If the township can successfully place the issue on the ballot, it will prevent voters from asking for a larger reduction during that same five-year period, even if the reduction fails to win voter approval.

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Reduction Petitions




Petition procedures:

- There is currently no clear guidance in Ohio law on whether this five-year limitation is triggered simply by filing a petition (even if the board of elections rules it to be invalid and refuses to place the petition on the ballot) or if it means that a petition must be valid to be considered "filed."
- Each individual county board of elections must decide what to do when faced with this dilemma, and the Ohio Secretary of State's advice to boards of elections is that they should consult with their county prosecutor and follow his or her advice. It is therefore possible that a county board of elections would refuse to place a valid petition on the ballot because a defective petition had already been filed in the five-year period.
- Note that the county board of elections can only accept petitions that are facially valid. Therefore, a petition that was clearly short of the required number of signatures or that possessed another facially obvious defect could not even be filed with a board of elections. Such a facially invalid petition would not serve to trigger the five-year limitation.

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Board Termination / Reduction




- ORC § 5705.19 authorizes a Board of Township Trustees to terminate or permanently reduce certain types of levies if it adopts a resolution stating that the continuance of the levy is unnecessary and the levy shall be terminated or that the millage is excessive and the levy shall be decreased by a designated amount.
- This authority applies to the same types of levies (namely levies for streets, roads and bridges; fire and/or emergency medical; police and/or emergency medical; and ambulance and/or emergency medical) that electors have the ability to petition to reduce if such levies are for a continuing period of time.
- However, a Board has the ability to terminate or permanently reduce levies for the same purpose(s) even if they are for a specified number of years and not just for a continuing period of time.

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Questions?



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