

As Reported by the House Energy and Environment Committee

125th General Assembly

Regular Session

2003-2004

Am. H. B. No. 25

**Representatives Gibbs, Grendell, Peterson, Seitz, Otterman, McGregor, Core,
Gilb, Hollister, Niehaus, Setzer, Wagner, DeBose, Domenick, Skindell,
Carmichael**

A B I L L

To amend sections 307.37 and 711.131 and to repeal 1
section 4740.14 of the Revised Code to permit 2
counties to include regulations in their building 3
codes to protect existing surface and subsurface 4
drainage, and to eliminate the Residential 5
Construction Advisory Committee. 6

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 307.37 and 711.131 of the Revised 7
Code be amended to read as follows: 8

Sec. 307.37. (A)~~(1)~~ As used in this section, "proposed new 9
construction" means a proposal to erect, construct, repair, alter, 10
redevelop, or maintain a single-family, two-family, or 11
three-family dwelling or any structure that is regulated by the 12
Ohio building code. 13

(B)(1) The board of county commissioners, in addition to its 14
other powers, may adopt, amend, rescind, administer, and enforce 15
regulations pertaining to the erection, construction, repair, 16
alteration, redevelopment, and maintenance of single-family, 17
two-family, and three-family dwellings within the unincorporated 18

territory of the county, or the board may establish districts in 19
any part of the unincorporated territory and may adopt, amend, 20
rescind, administer, and enforce such regulations in the 21
districts. When adopted, all regulations, including service 22
charges, shall be uniform within all districts in which building 23
codes are established; however, more stringent regulations may be 24
imposed in flood hazard areas and in Lake Erie coastal erosion 25
areas identified under section 1506.06 of the Revised Code in 26
order to prevent or reduce the hazard resulting from flooding and 27
from erosion along Lake Erie. ~~In~~ Except as provided in division 28
(B)(3) of this section, in no case shall the regulations go beyond 29
the scope of regulating the safety, health, and sanitary 30
conditions of ~~such~~ those buildings. ~~Any~~ 31

Any person adversely affected by an order of the board 32
adopting, amending, or rescinding a regulation under this section 33
may appeal to the court of common pleas of the county on the 34
ground that the board failed to comply with the law in adopting, 35
amending, rescinding, publishing, or distributing the ~~regulations~~ 36
regulation, ~~or~~ that the regulation, as adopted or amended by the 37
board, is unreasonable or unlawful, or that the revision of the 38
regulation was unreasonable or unlawful. 39

(2) A county building code may include regulations for 40
participation in the national flood insurance program established 41
in the "Flood Disaster Protection Act of 1973," 87 Stat. 975, 42
U.S.C.A. 4002, as amended, and regulations adopted for the 43
purposes of section 1506.04 or 1506.07 of the Revised Code 44
governing the prohibition, location, erection, construction, 45
redevelopment, or floodproofing of new buildings or structures, 46
substantial improvements to existing buildings or structures, or 47
other development in unincorporated territory within flood hazard 48
areas identified under the "Flood Disaster Protection Act of 49
1973," 87 Stat. 975, 42 U.S.C.A. 4002, as amended, or within Lake 50

Erie coastal erosion areas identified under section 1506.06 of the Revised Code, including, but not limited to, residential, commercial, institutional, or industrial buildings or structures or other permanent structures, as ~~that term is~~ defined in section 1506.01 of the Revised Code. Rules adopted under division ~~(A)~~(B)(2) of this section shall not conflict with the Ohio building code.

(3)(a) A county building code may include regulations that provide for a review of the specific effects of a proposed new construction on existing surface or subsurface drainage. The regulations may require reasonable drainage mitigation and reasonable alteration of a proposed new construction before a building permit is issued in order to prevent or correct any adverse effects that the proposed new construction may have on existing surface or subsurface drainage.

(b) If regulations are adopted under division (B)(3) of this section, the board shall specify in the regulations a procedure for the review of the specific effects of a proposed new construction on existing surface or subsurface drainage. The procedure shall include at a minimum all of the following:

(i) A meeting at which the proposed new construction shall be examined for those specific effects. The meeting shall be held within thirty days after an application for a building permit is filed unless the applicant agrees in writing to extend that time period or to postpone the meeting to another date, time, or place. The meeting shall be scheduled within five days after an application for a building permit is filed.

(ii) Written notice of the date, time, and place of that meeting, sent by regular mail to the applicant. The written notice shall be mailed at least seven days before the scheduled meeting date.

(iii) Completion of the review by the board of county commissioners not later than thirty days after the application for a building permit is filed unless the applicant has agreed in writing to extend that time period or postpone the meeting to a later time, in which case the review shall be completed not later than two days after the date of the meeting. A complete review shall include the issuance of any order of the board of county commissioners regarding necessary reasonable drainage mitigation and necessary reasonable alterations to the proposed new construction to prevent or correct any adverse effects on existing surface or subsurface drainage. If the review is not completed within the thirty-day period or an extended or postponed period that the applicant has agreed to, the proposed new construction shall be deemed to have no adverse effects on existing surface or subsurface drainage, and those effects shall not be a valid basis for the denial of a building permit.

(iv) A written statement, provided to the applicant at the meeting or in an order for alterations to a proposed new construction, informing the applicant of the right to seek appellate review of the denial of a building permit under division (B)(3)(b)(iii) of this section by filing a petition in accordance with Chapter 2506. of the Revised Code.

(c) The regulations may authorize the board to enter into an agreement with the county engineer or another qualified person or entity to carry out any necessary inspections and make evaluations about what, if any, alterations are necessary to prevent or correct any adverse effects that a proposed new construction may have on existing surface or subsurface drainage.

(d) Regulations authorized by division (B)(3) of this section shall not apply to any property that has been approved by a platting authority under section 711.05, 711.09, 711.10, or 711.131 of the Revised Code.

(e) As used in division (B)(3) of this section, "subsurface drainage" does not include a household sewage disposal system as defined in section 3709.091 of the Revised Code. 114
115
116

~~(B)~~(C) Regulations or amendments may be adopted under this 117
section only after public hearing at not fewer than two regular 118
sessions of the board. The board shall cause to be published in a 119
newspaper of general circulation in the county notice of the 120
public hearings, including time, date, and place, once a week for 121
two weeks immediately preceding the hearings. The proposed 122
regulations or amendments shall be made available by the board to 123
the public at the board office. The regulations or amendments 124
shall take effect on the thirty-first day following the date of 125
their adoption. 126

~~(C)~~(D) No person shall violate any regulation of the board 127
adopted under sections 307.37 to 307.40 of the Revised Code. 128

Each day during which an illegal location, erection, 129
construction, floodproofing, repair, alteration, development, 130
redevelopment, or maintenance continues may be considered a 131
separate offense. 132

~~(D)~~(E) Regulations or amendments adopted by resolution of the 133
board do not affect buildings or structures that exist or on which 134
construction has begun on or before the date the regulation or 135
amendment is adopted by the board. 136

~~(E)~~(F) The board may provide for a building regulation 137
department and may employ ~~such~~ personnel ~~as~~ that it determines to 138
be necessary for the purpose of enforcing its regulations. Upon 139
certification of the building department under section 3781.10 of 140
the Revised Code, the board may direct the county building 141
department to exercise enforcement authority and to accept and 142
approve plans pursuant to sections 3781.03 and 3791.04 of the 143
Revised Code for any other kind or class of building in the 144

orporated territory of the county. 145

Sec. 711.131. Notwithstanding sections 711.001 to 711.13 of 146
the Revised Code, a proposed division of a parcel of land along an 147
existing public street, not involving the opening, widening, or 148
extension of any street or road, and involving no more than five 149
lots after the original tract has been completely subdivided, may 150
be submitted to the authority having approving jurisdiction of 151
plats under section 711.05, 711.09, or 711.10 of the Revised Code 152
for approval without plat. If the authority acting through a 153
properly designated representative is satisfied that the proposed 154
division is not contrary to applicable platting, subdividing, 155
zoning, or access management regulations or regulations adopted 156
under division (B)(3) of section 307.37 of the Revised Code 157
regarding existing surface or subsurface drainage, it shall within 158
seven working days after submission approve the proposed division 159
and, on presentation of a conveyance of the parcel, shall stamp 160
the conveyance "approved by (planning authority); no plat 161
required" and have it signed by its clerk, secretary, or other 162
official as may be designated by it. The planning authority may 163
require the submission of a sketch and other information that is 164
pertinent to its determination under this section. 165

Section 2. That existing sections 307.37 and 711.131 and 166
section 4740.14 of the Revised Code are hereby repealed. 167

Section 3. The provisions of Section 1 of this act regarding 168
surface or subsurface drainage regulations shall not apply to any 169
property for which a plat is submitted for approval under section 170
711.05, 711.09, or 711.10 of the Revised Code, or for which a 171
proposed division is submitted for approval without plat under 172
section 711.131 of the Revised Code, on or before the effective 173
date of this act if the approval of the submitted plat or proposed 174

division is pending on the effective date of this act.

175