

As Introduced

**128th General Assembly
Regular Session
2009-2010**

S. B. No. 110

Senator Niehaus

—

A B I L L

To amend sections 711.05, 711.10, 3718.01, 3718.02, 1
3718.03, 3718.04, 3718.05, 3718.06, 3718.09, and 2
6117.51 and to enact sections 3718.011, 3718.023, 3
3718.024, 3718.025, and 3718.041 of the Revised 4
Code, to amend sections 711.05 and 711.10 of the 5
Revised Code, which are scheduled to take effect 6
on July 1, 2009, to amend Section 120.05 of Am. 7
Sub. H.B. 119 of the 127th General Assembly, and 8
to repeal Sections 120.01 and 120.02 of Am. Sub. 9
H.B. 119 of the 127th General Assembly to revise 10
the Household Sewage and Small Flow On-Site Sewage 11
Treatment Systems Law, and to declare an 12
emergency. 13

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

Section 1. That sections 711.05, 711.10, 3718.01, 3718.02, 14
3718.03, 3718.04, 3718.05, 3718.06, 3718.09, and 6117.51 be 15
amended and sections 3718.011, 3718.023, 3718.024, 3718.025, and 16
3718.041 of the Revised Code be enacted to read as follows: 17

Sec. 711.05. (A) Upon the submission of a plat for approval, 18
in accordance with section 711.041 of the Revised Code, the board 19
of county commissioners shall certify on it the date of the 20

submission. Within five days of submission of the plat, the board 21
shall schedule a meeting to consider the plat and send a written 22
notice by regular mail to the fiscal officer of the board of 23
township trustees of the township in which the plat is located and 24
the board of health of the health district in which the plat is 25
located. The notice shall inform the trustees and the board of 26
health of the submission of the plat and of the date, time, and 27
location of any meeting at which the board of county commissioners 28
will consider or act upon the proposed plat. The meeting shall 29
take place within thirty days of submission of the plat, and no 30
meeting shall be held until at least seven days have passed from 31
the date the notice was sent by the board of county commissioners. 32
The approval of the board required by section 711.041 of the 33
Revised Code or the refusal to approve shall take place within 34
thirty days from the date of submission or such further time as 35
the applying party may agree to in writing; otherwise, the plat is 36
deemed approved and may be recorded as if bearing such approval. 37

(B) The board may adopt general rules governing plats and 38
subdivisions of land falling within its jurisdiction, to secure 39
and provide for the coordination of the streets within the 40
subdivision with existing streets and roads or with existing 41
county highways, for the proper amount of open spaces for traffic, 42
circulation, and utilities, and for the avoidance of future 43
congestion of population detrimental to the public health, safety, 44
or welfare, but shall not impose a greater minimum lot area than 45
forty-eight hundred square feet. Before the board may amend or 46
adopt rules, it shall notify all the townships in the county of 47
the proposed amendments or rules by regular mail at least thirty 48
days before the public meeting at which the proposed amendments or 49
rules are to be considered. 50

The rules may require the board of health to review and 51
comment on a plat before the board of county commissioners acts 52

upon it and may also require proof of compliance with any 53
applicable zoning resolutions, and with rules governing household 54
sewage treatment systems, as a basis for approval of a plat. Where 55
under section 711.101 of the Revised Code the board of county 56
commissioners has set up standards and specifications for the 57
construction of streets, utilities, and other improvements for 58
common use, the general rules may require the submission of 59
appropriate plans and specifications for approval. The board shall 60
not require the person submitting the plat to alter the plat or 61
any part of it as a condition for approval, as long as the plat is 62
in accordance with general rules governing plats and subdivisions 63
of land, adopted by the board as provided in this section, in 64
effect at the time the plat was submitted and the plat is in 65
accordance with any standards and specifications set up under 66
section 711.101 of the Revised Code, in effect at the time the 67
plat was submitted. 68

(C) The ground of refusal to approve any plat, submitted in 69
accordance with section 711.041 of the Revised Code, shall be 70
stated upon the record of the board, and, within sixty days 71
thereafter, the person submitting any plat that the board refuses 72
to approve may file a petition in the court of common pleas of the 73
county in which the land described in the plat is situated to 74
review the action of the board. A board of township trustees is 75
not entitled to appeal a decision of the board of county 76
commissioners under this section. 77

Sec. 711.10. (A) Whenever a county planning commission or a 78
regional planning commission adopts a plan for the major streets 79
or highways of the county or region, no plat of a subdivision of 80
land within the county or region, other than land within a 81
municipal corporation or land within three miles of a city or one 82
and one-half miles of a village as provided in section 711.09 of 83
the Revised Code, shall be recorded until it is approved by the 84

county or regional planning commission under division (C) of this 85
section and the approval is endorsed in writing on the plat. 86

(B) A county or regional planning commission may require the 87
submission of a preliminary plan for each plat sought to be 88
recorded. If the commission requires this submission, it shall 89
provide for a review process for the preliminary plan. Under this 90
review process, the planning commission shall give its approval, 91
its approval with conditions, or its disapproval of each 92
preliminary plan. The commission's decision shall be in writing, 93
shall be under the signature of the secretary of the commission, 94
and shall be issued within thirty-five business days after the 95
submission of the preliminary plan to the commission. The 96
disapproval of a preliminary plan shall state the reasons for the 97
disapproval. A decision of the commission under this division is 98
preliminary to and separate from the commission's decision to 99
approve, conditionally approve, or refuse to approve a plat under 100
division (C) of this section. 101

(C) Within five calendar days after the submission of a plat 102
for approval under this division, the county or regional planning 103
commission shall schedule a meeting to consider the plat and send 104
a notice by regular mail or by electronic mail to the fiscal 105
officer of the board of township trustees of the township in which 106
the plat is located and the board of health of the health district 107
in which the plat is located. The notice shall inform the trustees 108
and the board of health of the submission of the plat and of the 109
date, time, and location of any meeting at which the county or 110
regional planning commission will consider or act upon the plat. 111
The meeting shall take place within thirty calendar days after 112
submission of the plat, and no meeting shall be held until at 113
least seven calendar days have passed from the date the planning 114
commission sent the notice. 115

The approval of the county or regional planning commission, 116

the commission's conditional approval as described in this 117
division, or the refusal of the commission to approve shall be 118
endorsed on the plat within thirty calendar days after the 119
submission of the plat for approval under this division or within 120
such further time as the applying party may agree to in writing; 121
otherwise that plat is deemed approved, and the certificate of the 122
commission as to the date of the submission of the plat for 123
approval under this division and the failure to take action on it 124
within that time shall be sufficient in lieu of the written 125
endorsement or evidence of approval required by this division. 126

A county or regional planning commission may grant 127
conditional approval under this division to a plat by requiring a 128
person submitting the plat to alter the plat or any part of it, 129
within a specified period after the end of the thirty calendar 130
days, as a condition for final approval under this division. Once 131
all the conditions have been met within the specified period, the 132
commission shall cause its final approval under this division to 133
be endorsed on the plat. No plat shall be recorded until it is 134
endorsed with the commission's final or unconditional approval 135
under this division. 136

The ground of refusal of approval of any plat submitted under 137
this division, including citation of or reference to the rule 138
violated by the plat, shall be stated upon the record of the 139
county or regional planning commission. Within sixty calendar days 140
after the refusal under this division, the person submitting any 141
plat that the commission refuses to approve under this division 142
may file a petition in the court of common pleas of the proper 143
county, and the proceedings on the petition shall be governed by 144
section 711.09 of the Revised Code as in the case of the refusal 145
of a planning authority to approve a plat. A board of township 146
trustees is not entitled to appeal a decision of the commission 147
under this division. 148

A county or regional planning commission shall adopt general 149
rules, of uniform application, governing plats and subdivisions of 150
land falling within its jurisdiction, to secure and provide for 151
the proper arrangement of streets or other highways in relation to 152
existing or planned streets or highways or to the county or 153
regional plan, for adequate and convenient open spaces for 154
traffic, utilities, access of firefighting apparatus, recreation, 155
light, and air, and for the avoidance of congestion of population. 156
The rules may provide for their modification by the commission in 157
specific cases where unusual topographical and other exceptional 158
conditions require the modification. The rules may require the 159
board of health to review and comment on a plat before the 160
commission acts upon it and also may require proof of compliance 161
with any applicable zoning resolutions, and with rules governing 162
~~household~~ sewage treatment systems, as a basis for approval of a 163
plat. 164

Before adoption of its rules or amendment of its rules, the 165
commission shall hold a public hearing on the adoption or 166
amendment. Notice of the public hearing shall be sent to all 167
townships in the county or region by regular mail or electronic 168
mail at least thirty business days before the hearing. No county 169
or regional planning commission shall adopt any rules requiring 170
actual construction of streets or other improvements or facilities 171
or assurance of that construction as a condition precedent to the 172
approval of a plat of a subdivision unless the requirements have 173
first been adopted by the board of county commissioners after a 174
public hearing. A copy of the rules shall be certified by the 175
planning commission to the county recorders of the appropriate 176
counties. 177

After a county or regional street or highway plan has been 178
adopted as provided in this section, the approval of plats and 179
subdivisions provided for in this section shall be in lieu of any 180

approvals provided for in other sections of the Revised Code, 181
insofar as the territory within the approving jurisdiction of the 182
county or regional planning commission, as provided in this 183
section, is concerned. Approval of a plat shall not be an 184
acceptance by the public of the dedication of any street, highway, 185
or other way or open space shown upon the plat. 186

No county or regional planning commission shall require a 187
person submitting a plat to alter the plat or any part of it as 188
long as the plat is in accordance with the general rules governing 189
plats and subdivisions of land, adopted by the commission as 190
provided in this section, in effect at the time the plat is 191
submitted. 192

A county or regional planning commission and a city or 193
village planning commission, or platting commissioner or 194
legislative authority of a village, with subdivision regulation 195
jurisdiction over unincorporated territory within the county or 196
region may cooperate and agree by written agreement that the 197
approval of a plat by the city or village planning commission, or 198
platting commissioner or legislative authority of a village, as 199
provided in section 711.09 of the Revised Code, shall be 200
conditioned upon receiving advice from or approval by the county 201
or regional planning commission. 202

(D) As used in this section, "business day" means a day of 203
the week excluding Saturday, Sunday, or a legal holiday as defined 204
in section 1.14 of the Revised Code. 205

Sec. 3718.01. As used in this chapter: 206

(A) "Alter" means to change by making substantive 207
replacements of, additions to, or deletions in the design or 208
materials or to change the location of an existing sewage 209
treatment system. 210

(B) <u>"Bedrock" means hard or soft rock stratum that underlies the soil and other unconsolidated material or that is exposed at the surface.</u>	211
	212
	213
(C) "Board of health" means the board of health of a city or general health district or the authority having the duties of a board of health in any city as authorized by section 3709.05 of the Revised Code.	214
	215
	216
	217
(C) (D) "Domestic septage" means the liquid or solid material removed from a sewage treatment system, portable toilet, or type III marine sanitation device as defined in 33 C.F.R. 159.3. "Domestic septage" does not include grease removed from a grease trap.	218
	219
	220
	221
	222
(D) (E) <u>"Gray water recycling systems" means systems that treat and reuse wastewater discharged from lavatories, bathtubs, showers, clothes washers, and laundry sinks that does not contain food wastes or bodily wastes.</u>	223
	224
	225
	226
(F) "Household sewage treatment system" means any sewage treatment system, or part of such a system, that receives sewage from a single-family, two-family, or three-family dwelling.	227
	228
	229
(E) (G) <u>"Infiltrative surface" means the point or area of application of treated or partially treated sewage to the soil or sand fill for purposes of treatment, dispersal, or both.</u>	230
	231
	232
(H) "Inspection" means the on-site evaluation or analysis of the functioning <u>design, installation, and operation</u> of a sewage treatment system.	233
	234
	235
(F) (I) "Installer" means any person who engages in the business of installing or altering or who, as an employee of another, installs or alters any sewage treatment system.	236
	237
	238
(G) (J) <u>"Limiting condition" means a restrictive soil layer, bedrock, a water table, or ground water that limits or precludes</u>	239
	240

the treatment or dispersal of sewage in the soil of a property 241
where a household sewage treatment system is located. 242

(K) "Manufacturer" means any person that manufactures sewage 243
treatment systems or components of systems. 244

~~(H)~~(L) "Person" has the same meaning as in section 1.59 of 245
the Revised Code and also includes any state, any political 246
subdivision of a state, and any department, division, board, 247
commission, agency, or instrumentality of a state or political 248
subdivision. 249

~~(I)~~(M) "Sanitary sewerage system" means pipelines or 250
conduits, pumping stations, force mains, and all other 251
constructions, devices, appurtenances, and facilities that convey 252
sewage to a central sewage treatment plant and that are required 253
to obtain a permit under Chapter 6111. of the Revised Code. 254

~~(J)~~(N) "Septage hauler" means any person who engages in the 255
collection, transportation, disposal, and land application of 256
domestic septage. 257

~~(K)~~(O) "Service provider" means any person who services, but 258
does not install or alter, sewage treatment systems. 259

~~(I)~~(P) "Sewage" means liquid waste containing animal or 260
vegetable matter in suspension or solution that originates from 261
humans and human activities. "Sewage" includes liquids containing 262
household chemicals in solution commonly discharged from a 263
residence or from commercial, institutional, or other similar 264
facilities. 265

~~(M)~~(O) "Sewage treatment system" means a household sewage 266
treatment system, a small flow on-site sewage treatment system, or 267
both, as applicable. 268

~~(N)~~(R) "Small flow on-site sewage treatment system" means a 269
system, other than a household sewage treatment system, that 270

treats not more than one thousand gallons of sewage per day and 271
that does not require a national pollutant discharge elimination 272
system permit issued under section 6111.03 of the Revised Code or 273
an injection well drilling or operating permit issued under 274
section 6111.043 of the Revised Code. 275

(S) "Soil" means the naturally occurring pedogenically 276
developed and undeveloped regolith overlying bedrock. 277

(T) "Vertical separation distance" means the distance of the 278
infiltrative surface of the distribution system of a soil 279
absorption system, or component thereof, to a limiting condition 280
in the soil. 281

(U) "Water table" means the surface of the saturated zone 282
below which all interconnected voids are filled with water and at 283
which the pressure is atmospheric. 284

Sec. 3718.011. For purposes of this chapter, a sewage 285
treatment system is causing a public health nuisance if any of the 286
following situations occurs: 287

(A) The sewage treatment system is not operating in the 288
manner for which it was designed due to mechanical failure or 289
another type of system malfunction, including, but not limited to, 290
the inability of the sewage treatment system to accept wastewater 291
at the rate for which the system was designed thereby preventing 292
or limiting the use of plumbing fixtures due to mechanical failure 293
or hydraulic overloading. 294

(B) The sewage treatment system is discharging wastewater 295
from the system's soil absorption components in an amount that 296
exceeds the absorptive capacity of the soil resulting in ponding, 297
seepage, or other discharge of effluent to surface or ground 298
water. Evidence of the situation described in this division shall 299
be collected by standard investigative methods and a standard 300

scoring process of site conditions, including, but not limited to, 301
dye testing, visual observations of ponded effluent, detection of 302
sewage odors, or water quality sampling. 303

(C) The sewage treatment system is discharging wastewater 304
into surface water so that the surface water fails to meet water 305
quality standards established for a surface water body in 306
accordance with rules adopted under section 6111.041 of the 307
Revised Code, or, with respect to systems authorized under the 308
NPDES permit program established under Chapter 6111. of the 309
Revised Code and rules adopted under it, the system routinely 310
exceeds the effluent discharge standards specified in a permit 311
issued under that program. 312

(D) Wastewater from a sewage treatment system causes 313
identified contamination of ground water so that primary drinking 314
water standards are exceeded in violation of Chapter 3745-81 of 315
the Administrative Code. 316

Sec. 3718.02. ~~(A) Not later than one year after the effective~~ 317
~~date of this section, the~~ The public health council, in accordance 318
with Chapter 119. of the Revised Code, shall adopt, and 319
subsequently may amend and rescind, rules of general application 320
throughout the state to administer this chapter. Rules adopted 321
under division (A) of this section shall do at least all of the 322
following: 323

(1) Require that the appropriate board of health approve or 324
disapprove the ~~use~~ installation, operation, and alteration of a 325
sewage treatment system if it is not connected to a sanitary 326
sewerage system~~+~~. The rules shall provide that the disapproval of 327
the installation, operation, or alteration of a sewage treatment 328
system may be appealed in accordance with Chapter 2506. of the 329
Revised Code by the person seeking approval of the installation, 330
operation, or alteration of the system. 331

(2) Require ~~that~~ a board of health, or other person as 332
established by rule, to conduct a site evaluation for any proposed 333
installation of a sewage treatment system; 334

(3) Prescribe standards for the siting, design, installation, 335
operation, monitoring, maintenance, and abandonment of ~~household~~ 336
sewage treatment systems that may be used in this state and for 337
the progressive or incremental alteration, repair, or replacement 338
of existing sewage treatment systems. The standards shall include 339
at a minimum all of the following: 340

(a) Soil absorption specifications; and vertical separation 341
distances. 342

(i) Soil absorption specifications established in rules shall 343
include standards regarding the sizing of sewage treatment systems 344
in use in the state. 345

(ii) In establishing soil absorption specifications and 346
vertical separation distances, the rules shall identify those soil 347
conditions or vertical separation distances that present a low or 348
moderate risk of inadequate treatment or dispersal of sewage from 349
sewage treatment systems. For low and moderate risk systems, the 350
required vertical separation distance shall not exceed eighteen 351
inches. 352

In addition, the rules shall identify those soil conditions 353
that present a high risk of inadequate treatment or dispersal of 354
sewage. For such high risk conditions, the vertical separation 355
distance shall be set at a depth from twenty-four to thirty-six 356
inches and shall not be lowered unless a reduction of vertical 357
separation is granted in accordance with rules adopted under 358
division (A)(3)(a)(iii) of this section. 359

(iii) The rules shall provide that no reduction in vertical 360
separation distances shall be approved by the director of health 361
for any sewage treatment system, or component thereof, until the 362

director has submitted the proposed reduction to the sewage 363
treatment system technical advisory committee created in section 364
3718.03 of the Revised Code for review and recommended approval. 365
Any reduction that decreases the vertical separation to less than 366
twelve inches shall require pretreatment of the sewage. 367

(iv) The rules shall provide that a board of health may 368
petition the director to increase the vertical separation distance 369
for a sewage treatment system when conditions present a high risk 370
of inadequate treatment or dispersal of sewage. The rules also 371
shall provide that the director may approve such a request upon a 372
demonstration by the board of health that unusual or unique local 373
conditions relating to terrain, bedrock, water table, soil 374
fragments, or soil textures require the establishment of greater 375
vertical separation distances within the jurisdiction of the board 376
of health or a portion thereof. If, under the rules, the director 377
approves a greater vertical separation distance, the approval is 378
subject to appeal in accordance with Chapter 119. of the Revised 379
Code. The rules shall allow a person who is denied permission by a 380
board of health to install or replace a sewage treatment system on 381
the ground that an appropriate vertical separation distance cannot 382
be achieved the opportunity to appeal that decision of the board 383
of health in accordance with Chapter 2506. of the Revised Code. 384

(b) Specifications for discharging systems that do not 385
conflict with provisions related to the quality of treated sewage 386
effluent from household sewage treatment systems that is applied 387
to soil on the property where a household sewage treatment system 388
is located. The specifications established in the rules for the 389
quality of effluent from discharging systems shall comply with 390
discharge requirements imposed by the national pollutant discharge 391
elimination system permit program established in under section 392
6111.03 of the Revised Code and rules adopted under it. 393
394

(c) Requirements for the maintenance of a system according to 395
the manufacturer's instructions, if available, including mandatory 396
requirements for service contracts or other arrangements that 397
assure regular maintenance and upkeep of the system; 398

(d) Requirements and procedures under which a person may 399
demonstrate the required maintenance of a system in lieu of having 400
an inspection conducted when an inspection otherwise is required. 401

The rules also shall require that a system that has been or 402
is sited or installed prior to or on the effective date of the 403
rules and that is operating on that date shall be deemed approved 404
unless the system is declared to be a public health nuisance by a 405
board of health. 406

(4) Prescribe procedures for notification to boards of health 407
of the approval of a sewage treatment system or components of a 408
system by the director of health under section 3718.04 of the 409
Revised Code; 410

(5) Prescribe criteria and procedures under which boards of 411
health shall issue installation ~~and permits,~~ operation permits, 412
and alteration permits for sewage treatment systems. The rules 413
shall require as a condition of an installation permit that the 414
installer of a system must warrant that the system was installed 415
in accordance with all applicable rules and design requirements. 416
In addition, the rules shall require a board of health, not later 417
than sixty days after the issuance of an installation, operation, 418
or alteration permit, to ~~certify to~~ notify the director ~~on a form~~ 419
~~provided by the director~~ that the permit was issued. The rules 420
shall require the notification to be in a format prescribed by the 421
director and to include information related to the issuance of the 422
permit. With the assistance of the department of health, a board 423
of health, to the extent practicable, shall computerize the 424
process of the issuance of permits for sewage treatment systems. 425

(6) Require a board of health to inspect a sewage treatment system not later than ~~eighteen~~ twelve months after its installation to ensure that the system is operating properly. The rules shall require a board of health, not later than sixty days after the inspection, to certify to the director on a form provided by the director that the inspection was performed.

(7) Require each board of health to develop a program for the enforcement of maintenance requirements established in rules adopted under division (A)(3)(c) of this section. The rules shall authorize a board of health, upon reasonable prior notice, to inspect any sewage treatment system if there is a complaint regarding the system or there is probable cause for the inspection. In addition, the rules shall authorize a board of health to inspect a sewage treatment system without prior notice in any instance in which the board has probable cause to believe that the system is endangering or threatening to endanger public health. The rules shall allow a board of health to continue an inspection program that was established by the board prior to the effective date of the rules.

(8) Require a board of health to register installers, service providers, and septage haulers that perform work within the health district; prescribe criteria and procedures for the registration; and prescribe criteria for a demonstration of competency as a part of the registration. The rules shall establish uniform statewide bonding requirements or other financial security requirements for installers, service providers, and septage haulers as a condition of registration within any health district. The rules shall establish a methodology by which the required amount of a bond or other security may be calculated for each installer, service provider, and septage hauler. The methodology, at a minimum, shall consider the number of systems installed or serviced and the type of system installed or serviced by an installer, service provider,

or septage hauler on an annual basis. The rules shall provide that 458
no board of health shall require an additional or different bond 459
or security requirement as a condition of registration beyond the 460
bonding and security requirements established in the rules adopted 461
under division (A)(8) of this section. 462

The rules shall establish a cost methodology for determining 464
the fee for the registration of an installer, service provider, or 465
septage hauler in any health district. 466

~~(8)~~(9) Prescribe requirements for the collection, 467
transportation, disposal, and land application of domestic septage 468
in this state from a sewage treatment system; 469

~~(9)~~(10) Require boards of health to maintain records that are 470
determined necessary to ascertain compliance with this chapter and 471
the rules adopted under it; 472

~~(10)~~(11) Require a ~~board of health and~~ the manufacturer of a 473
sewage treatment system, ~~when possible,~~ that is authorized for use 474
in this state in rules adopted under this section or that is 475
approved for use in this state under section 3718.04 of the 476
Revised Code to provide instructions for the operation and 477
maintenance of the system. The rules shall ~~authorize the~~ 478
~~instructions to be posted on the department of health's web site~~ 479
~~and the manufacturer's web site~~ provide that a board of health may 480
require a copy of a manufacturer's instructions for the operation 481
and maintenance of a system to be filed with the board prior to 482
the installation and use of the system in the health district in 483
which the board has jurisdiction. In addition, the rules shall 484
require a board of health and a manufacturer to provide a copy of 485
the operation and maintenance instructions, if available, when a 486
board of health or a manufacturer receives a written request for 487
instructions. 488

~~(11)~~(12) Prescribe criteria for the provision of written 489
evidence of compliance with rules pertaining to household sewage 490
treatment for purposes of sections 711.05 and 711.10 of the 491
Revised Code; 492

~~(12)~~(13) Prescribe standards for the siting, design, 493
installation, operation, monitoring, maintenance, and abandonment 494
of small flow on-site sewage treatment systems that may be used in 495
this state; 496

(14) Prescribe minimum criteria and procedures under which 497
boards of health may establish household sewage treatment district 498
management programs for the purpose of providing a responsive 499
approach toward preventing or solving sewage treatment problems 500
resulting from household sewage treatment systems within the 501
districts established under the program. For purposes of division 502
(A)~~(12)~~(14) of this section, a board of health may enter into a 503
contract with any entity to administer a household sewage 504
treatment district management program. 505

~~(13) Prescribe standards for the siting, design,~~ 506
~~installation, operation, monitoring, maintenance, and abandonment~~ 507
~~of small flow on-site sewage treatment systems that may be used in~~ 508
~~this state.~~ 509

(15) Prescribe standards for the use of subsurface drains to 510
remove any subsurface water from an area to be used for soil 511
absorption of sewage in the soil of a sewage treatment system; 512

(16) Authorize a board of health to require a property owner 513
whose property is serviced by a sewage treatment system to connect 514
to an available central sewer system under any of the following 515
circumstances and conditions: 516

(a) The central sewer system is located not more than three 517
hundred feet from the structure owned by the property owner 518
measured from the foundation of the structure to the right-of-way 519

where the central sewer system is located. 520

(b) There is an administrative or judicial order requiring connection to a central sewer system. 521
522

(c) The property is the subject of a sewer assessment process initiated by a county, municipal corporation, or other political subdivision. 523
524
525

The rules shall provide that after a property owner is required to connect to a central sewer system, the property owner is prohibited from installing, replacing, or continuing to use a sewage treatment system. The rules shall establish exceptions for extenuating circumstances that allow a property owner to continue to use a sewage treatment system. 526
527
528
529
530
531

The rules shall provide that if a property owner is required to connect to a central sewer system, a board of health shall afford the property owner a period of time not to exceed three years to install the connection to the central sewer system. The rules shall authorize a board of health to require connection to a central sewer system within an expedited time frame if a sewage treatment system owned by a property owner is causing a public health nuisance and the cost of connection to a central sewer system is not excessive. 532
533
534
535
536
537
538
539
540

Governmental entities constructing central sewer systems shall construct the central sewer systems in a manner that minimizes the distance between the foundations of the structures to be serviced by the central sewer system and the connecting point of the central sewer system. The rules shall provide that a property owner that is required under rules to connect to a municipal central sewer system not be required to submit to annexation by the municipal corporation as a condition of connecting to the municipal central sewer system. 541
542
543
544
545
546
547
548
549

A board of health shall not require the connection to a 550

central sewer system under rules adopted under division (A)(16) of 551
this section if a board of county commissioners has adopted a 552
resolution requiring connection under section 6117.51 of the 553
Revised Code. 554

(17) Prescribe standards for the inspection of septage 555
hauling truck tanks by boards of health, including, but not 556
limited to, tank seal safety specifications; 557

(18) Establish standards and testing methods to ensure that 558
all septic tanks, other disposal component tanks, dosing tanks, 559
pump vaults, household sewage treatment disposal system holding 560
tanks and privy vaults, or other applicable sewage disposal system 561
components manufactured after the effective date of this section 562
and used in this state are watertight and structurally sound; 563

(19) Require a board of health to give notice and an 565
opportunity for a hearing to an affected property owner regarding 566
any of the following: 567

(a) The denial of an installation, operation, or alteration 568
permit for a sewage treatment system; 569

(b) The imposition of a condition on the installation of a 570
sewage treatment system; 571

(c) The required replacement of a sewage treatment system. 572

The rules also shall establish procedures for giving such 573
notice and for conducting the hearing required in rules adopted 574
under division (A)(19) of this section. 575

(20) Prescribe standards for the regulation of gray water 576
recycling systems; 577

(21) Prohibit a sewage treatment system from causing a public 578
health nuisance; 579

(22) Define economic impact for purposes of division (B) of 580

this section and section 3718.022 of the Revised Code. 581

The council may adopt other rules under division (A) of this 582
section that it determines are necessary to implement this chapter 583
and to protect the public health and welfare. 584

At least sixty days prior to adopting a rule under division 585
(A) of this section, the council shall provide boards of health 586
and any other interested parties an opportunity to comment on the 587
rule. 588

(B)(1) In accordance with section 3709.20 or 3709.21 of the 589
Revised Code, as applicable, and subject to review by and approval 590
of the director under division (C) of section 3718.05 of the 591
Revised Code, a board of health may adopt rules necessary for the 592
public health providing for more stringent standards ~~governing~~ 593
~~household sewage treatment systems, installers, service providers,~~ 594
~~or septage haulers~~ than those established in rules of the public 595
health council adopted under division (A) of this section. ~~A~~ In 596
proposing or adopting the rules, a board of health shall consider 597
and document the economic impact of the rules on property owners 598
within the applicable health district. 599

(2) ~~A~~ A board that intends to adopt ~~such~~ rules shall notify the 600
department of health of the proposed rules and submit a copy of 601
the proposed rules at least ninety days prior to the proposed date 602
of adoption. The director shall approve or disapprove any such 603
proposed rule within ninety days after receiving ~~notice of it~~ 604
~~under this division~~ a copy of the proposed rule from the board of 605
health. ~~If the director fails to approve or disapprove a proposed~~ 606
~~rule within ninety days after receiving notice of it, the proposed~~ 607
~~rule shall be deemed approved.~~ 608

(3) In reviewing a proposed rule, the director shall approve 609
the rule if all of the following apply: 610

(a) The proposed rule does not conflict with a rule adopted 611

by the public health council. 612

(b) The proposed rule is authorized by division (B) of this section. 613
614

(c) The proposed rule is no less stringent than rules adopted by the public health council. 615
616

(d) The proposed rule does not require design changes to a sewage treatment system, or component thereof, that differ from the design authorized in rules adopted under division (A) of this section or approved by the director under section 3718.04 of the Revised Code. 617
618
619
620
621

(e) The proposed rule does not require operation or maintenance procedures for a sewage treatment system that conflict with procedures authorized in rules adopted under division (A) of this section or approved by the director under section 3718.04 of the Revised Code or that conflict with operation or maintenance instructions provided by the manufacturer of the system to the director. 622
623
624
625
626
627
628

(4) If a board of health fails to submit a proposed rule to the director or fails to demonstrate that the board has considered the economic impact of the proposed rule, the rule shall have no force or effect and is not enforceable. 629
630
631
632

Sec. 3718.023. (A) A board of health shall approve or deny the installation, operation, or alteration of sewage treatment systems the use of which has been authorized in rules adopted under section 3718.02 of the Revised Code or that have been approved for use in this state by the director of health under section 3718.04 of the Revised Code. The board shall approve an installation, operation, or alteration only in the health district in which the board has jurisdiction. A board shall approve the installation, operation, or alteration of a sewage treatment 633
634
635
636
637
638
639
640
641

system through the issuance of a permit in accordance with rules 642
adopted under section 3718.02 of the Revised Code. A board shall 643
not approve the installation, operation, or alteration of a sewage 644
treatment system if the installation, operation, or alteration is 645
not appropriate for the site at which the use of the system is or 646
is proposed to be located. In determining whether to approve or 647
disapprove the installation, operation, or alteration of a sewage 648
treatment system, a board shall consider and document the economic 649
impact on the property owner, the state of available technology, 650
and the nature and economics of various alternatives. In addition, 651
the board shall ensure that a system, when installed and 652
maintained properly, will not create a public health nuisance, 653
shall ensure that a system will maintain long-term treatment of 654
sewage, and shall require a system to comply with the requirements 655
established in division (B) of this section and other applicable 656
requirements of this chapter. 657

The board shall permit a property owner to select a sewage 658
treatment system for use by the property owner from those systems 659
that have been approved for use in the state, from the least 660
expensive system to the most expensive system, and a property 661
owner may select any such system regardless of its cost, provided 662
that the system selected will comply with all applicable 663
requirements and standards established under this chapter and 664
rules adopted under it. 665

(B) A board of health shall ensure that the design and 666
installation of a soil absorption system prevents public health 667
nuisances and will maintain long-term treatment of sewage. In 668
addition, a board of health shall ensure that a sewage treatment 669
system that is installed after the effective date of this section 670
shall not discharge into a ditch, stream, pond, lake, natural or 671
artificial waterway, drain tile, or other surface water or onto 672
the surface of the ground unless authorized by a national 673

pollutant discharge elimination system permit issued under Chapter 674
6111. of the Revised Code and rules adopted under it. In addition, 675
a board shall ensure that a sewage treatment system shall not 676
discharge into an abandoned well, a drainage well, a dry well, a 677
cesspool, a sinkhole, or another connection to ground water. If a 678
household sewage treatment system serving a two- or three-family 679
dwelling or a small flow on-site sewage treatment system is 680
classified as a class V injection well, a board of health shall 681
ensure that the system complies with rules adopted under section 682
6111.043 of the Revised Code and with Chapter 3745-34 of the 683
Administrative Code. 684

(C) For purposes of the approval or denial of the 685
installation, operation, or alteration of a sewage treatment 686
system under this section, "economic impact" means all of the 687
following, as applicable: 688

(1) The cost to the property owner for the installation of 689
the proposed sewage treatment system; 690

(2) The cost of an alternative system that, when installed 691
and maintained properly, will not create a public health nuisance 692
compared to the proposed sewage treatment system; 693

(3) The costs of repairing the sewage treatment system as 694
opposed to replacing the system with a new system. 695

Sec. 3718.024. The director of health in cooperation with a 696
board of health shall assess the familiarity of the board's staff 697
with best management practices in the use of sewage treatment 698
systems, as necessary, and conduct appropriate training to educate 699
the board's staff in those best management practices and in the 700
use of any new sewage treatment system technology that is 701
recommended for use by the sewage treatment system technical 702
advisory committee created in section 3718.03 of the Revised Code. 703

Sec. 3718.025. The environmental protection agency shall not 704
require a board of health to enter into a memorandum of 705
understanding or any other agreement with the agency regarding the 706
issuance of national pollutant discharge elimination system 707
permits for off-lot household sewage treatment systems. Rather, a 708
representative of a board of health may meet with a person who 709
intends to install such a system to determine the feasibility of 710
the system and refer the person to the agency to secure a national 711
pollutant discharge elimination system permit for the system if 712
needed. The environmental protection agency shall make revisions 713
to any applicable general national pollutant discharge elimination 714
system permits, issued pursuant to the federal Water Pollution 715
Control Act as defined in section 6111.01 of the Revised Code, so 716
that such a memorandum of understanding is not required. A board 717
of health voluntarily may enter into a memorandum of understanding 718
with the environmental protection agency to implement a general 719
national pollutant discharge elimination system permit. The agency 720
shall work with boards of health to facilitate securing national 721
pollutant discharge elimination system permits on behalf of 722
property owners in counties without a memorandum of understanding. 723

Sec. 3718.03. (A) There is hereby created the sewage 725
treatment system technical advisory committee consisting of the 726
director of health or the director's designee and ~~ten~~ thirteen 727
members who are knowledgeable about sewage treatment systems and 728
technologies. The director or the director's designee shall serve 729
as committee secretary and may vote on actions taken by the 730
committee. Of the ~~ten~~ thirteen members, ~~four~~ five shall be 731
appointed by the governor, ~~three~~ four shall be appointed by the 732
president of the senate, and ~~three~~ four shall be appointed by the 733
speaker of the house of representatives. 734

(1) Of the members appointed by the governor, one shall 735
represent academia and shall be active in teaching or research in 736
the area of on-site wastewater treatment, one shall be a 737
representative of the public who is not employed by the state or 738
any of its political subdivisions and who does not have a 739
pecuniary interest in ~~household~~ sewage treatment systems, one 740
shall be ~~an~~ a registered professional engineer ~~from~~ employed by 741
the environmental protection agency, ~~and~~ one shall be selected 742
from among soil scientists in the division of soil and water 743
conservation in the department of natural resources, and one shall 744
be a representative of a statewide organization representing 745
townships. 746

(2) Of the members appointed by the president of the senate, 747
one shall be a health commissioner who is a member of and 748
recommended by the association of Ohio health commissioners, one 749
shall represent the interests of manufacturers of ~~household~~ sewage 750
treatment systems, ~~and~~ one shall represent installers and service 751
providers, and one shall be a person with demonstrated experience 752
in the design of sewage treatment systems. 753

(3) Of the members appointed by the speaker of the house of 754
representatives, one shall be a health commissioner who is a 755
member of and recommended by the association of Ohio health 756
commissioners, one shall represent the interests of manufacturers 757
of ~~household~~ sewage treatment systems, ~~and~~ one shall be a 758
sanitarian who is registered under Chapter 4736. of the Revised 759
Code and who is a member of the Ohio environmental health 760
association, and one shall be a registered professional engineer 761
with experience in sewage treatment systems. 762

(B) Terms of members appointed to the committee shall be for 763
three years, with each term ending on the same day of the same 764
month as did the term that it succeeds. Each member shall serve 765
from the date of appointment until the end of the term for which 766

the member was appointed. 767

Members may be reappointed. Vacancies shall be filled in the 768
same manner as provided for original appointments. Any member 769
appointed to fill a vacancy occurring prior to the expiration date 770
of the term for which the member was appointed shall hold office 771
for the remainder of that term. A member shall continue to serve 772
after the expiration date of the member's term until the member's 773
successor is appointed or until a period of sixty days has 774
elapsed, whichever occurs first. The applicable appointing 775
authority may remove a member from the committee for failure to 776
attend two consecutive meetings without showing good cause for the 777
absences. 778

(C) The technical advisory committee annually shall select 779
from among its members a chairperson and a vice-chairperson ~~and a~~ 780
The secretary ~~to~~ shall keep a record of its proceedings. A 781
majority vote of the members of the full committee is necessary to 782
take action on any matter. The committee may adopt bylaws 783
governing its operation, including bylaws that establish the 784
frequency of meetings. 785

(D) Serving as a member of the sewage treatment system 786
technical advisory committee does not constitute holding a public 787
office or position of employment under the laws of this state and 788
does not constitute grounds for removal of public officers or 789
employees from their offices or positions of employment. Members 790
of the committee shall serve without compensation for attending 791
committee meetings. 792

(E) A member of the committee shall not have a conflict of 793
interest with the position. For the purposes of this division, 794
"conflict of interest" means the taking of any action that 795
violates any provision of Chapter 102. or 2921. of the Revised 796
Code. 797

(F) The sewage treatment system technical advisory committee shall do all of the following:

(1) Develop with the department of health standards ~~and,~~ guidelines, and protocols for approving or disapproving a sewage treatment system or components of a system under section 3718.04 of the Revised Code~~+. Any guideline requiring the submission of scientific information or testing data shall specify, in writing, the protocol and format to be used in submitting the information or data.~~

(2) Develop with the department an application form to be submitted to the director by an applicant for approval or disapproval of a sewage treatment system or components of a system and specify the information that must be included with an application form;

(3) ~~Advise~~ Make recommendations to the director on regarding the approval or disapproval of an application sent to the director under section 3718.04 of the Revised Code requesting approval of a sewage treatment system or components of a system;

(4) Pursue and recruit in an active manner the research, development, introduction, and timely approval of innovative and cost-effective ~~household~~ sewage treatment systems and components of a system for use in this state, which shall include conducting pilot projects to assess the effectiveness of a system or components of a system;

(5) ~~By January 1, 2008, provide the household sewage and small flow on site sewage treatment system study commission created by Am. Sub. H.B. 119 of the 127th general assembly with a list of available alternative systems and the estimated cost of each system~~ Review and, at the option of the committee, submit comments regarding the proposed adoption, amendment, or rescission of rules under division (A) of section 3718.02 of the Revised

Code. 829

(G) The chairperson of the committee shall prepare and submit 830
an annual report concerning the activities of the committee to the 831
general assembly not later than ninety days after the end of the 832
calendar year. The report shall discuss the number of applications 833
submitted under section 3718.04 of the Revised Code for the 834
approval of a new sewage treatment system or a component of a 835
system, the number of such systems and components that were 836
approved, any information that the committee considers beneficial 837
to the general assembly, and any other information that the 838
chairperson determines is beneficial to the general assembly. If 839
other members of the committee determine that certain information 840
should be included in the report, they shall submit the 841
information to the chairperson not later than thirty days after 842
the end of the calendar year. 843

(H) The department shall provide meeting space for the 844
committee. The committee shall be assisted in its duties by the 845
staff of the department. 846

(I) Sections 101.82 to 101.87 of the Revised Code do not 847
apply to the sewage treatment system technical advisory committee. 848

Sec. 3718.04. (A) A manufacturer seeking approval for the 849
installation and use of a sewage treatment system or a component 850
of a system in this state that differs in design or function from 851
systems or components of systems the use of which is authorized in 852
rules adopted under section 3718.02 of the Revised Code shall 853
request an application form from the department of health. The 854
applicant shall complete the form and include with it all of the 855
information that is required by the department and the sewage 856
treatment system technical advisory committee. The applicant shall 857
submit a completed application and all required information to the 858
director of health. - 859

(B) Upon receipt of an application, the director shall
examine the application and all accompanying information to
determine if the application is complete. If the director
determines that the application is not complete, the director
shall notify the applicant not later than ~~fourteen~~ sixty days
after ~~determining~~ submission of the application that the
application is not complete, provide a description of the
information that is missing from the application, and return the
application and all accompanying information to the applicant. The
applicant may resubmit the application to the director if the
application includes the information that was identified by the
director. Not later than ~~fourteen~~ thirty days after receipt of a
complete application, the director shall notify the committee of
the complete application and send a copy of the complete
application and all accompanying information to the committee
together with a request that the committee ~~advise~~ recommend that
the director ~~on the approval~~ approve or ~~disapproval of~~ disapprove
the system.

Not later than ninety days after receipt of a complete
application, the committee shall recommend approval or disapproval
of the application and submit its recommendation in writing to the
director. The director shall approve or disapprove the application
not later than sixty days after the committee submits its
recommendation to the director or, if the committee fails to
recommend approval or disapproval within the required time, not
later than one hundred twenty days after the submission of a
complete application. If the director fails to approve or
disapprove an application within the required time, the
application shall be deemed approved.

(C) In approving or disapproving an application, the director
shall use the standards ~~and~~, guidelines, and protocols that the
committee developed with the department for that purpose. The

director shall not approve an application that fails to comply 892
with those standards ~~and~~, guidelines, and protocols. If the 893
committee ~~advises~~ recommends approval or disapproval of an 894
application, the director ~~concerning the application, the director~~ 895
shall consider the ~~advice~~ committee's recommendation before 896
approving or disapproving the application. ~~However, if~~ If the 897
committee fails to provide advice or if the committee fails to 898
~~provide advice within a reasonable period of time before the~~ 899
~~director is required to approve or disapprove the application~~ 900
recommend approval or disapproval of the application within the 901
required time, the director may approve or disapprove the 902
application without considering the advice of the committee. ~~Not~~ 903
~~later than ninety days after receipt of a complete application,~~ 904
~~the director shall approve or disapprove the application in~~ 905
~~writing. If the director fails to approve or disapprove the~~ 906
~~application within that ninety day period, the application shall~~ 907
~~be deemed approved~~ The director shall establish and include any 908
appropriate terms and conditions with the approval of a sewage 909
treatment system or component of a system for use in this state. 910
For purposes of establishing soil absorption specifications for a 911
sewage treatment system, the terms and conditions shall include 912
standards regarding the sizing of the system. 913

(D) If the director approves an application under this 914
section, the director shall notify the applicant in writing. The 915
director also shall notify boards of health in accordance with the 916
procedures established in rules adopted under section 3718.02 of 917
the Revised Code that the sewage treatment system or component of 918
a system that is the subject of the application is approved for 919
statewide use. If the director disapproves an application under 920
this section, the director shall notify the applicant in writing 921
and provide a brief explanation for the disapproval. 922

(E) Decisions of the director approving or disapproving 923

applications under this section may be appealed in accordance with 924
Chapter 119. of the Revised Code. 925

(F) No approval shall be required under this section with 926
respect to a sewage treatment system or component of a system that 927
has been approved by the director prior to the effective date of 928
this amendment unless the manufacturer of the system or component 929
changes the design or seeks modifications to any terms and 930
conditions of the prior approval. 931

(G) The director may revoke the approval of a sewage 932
treatment system or component of a system if the director finds, 933
based on substantial evidence, that the system or component fails 934
to comply with applicable standards for the system or component. 935
The revocation of an approval under this division may be appealed 936
in accordance with Chapter 119. of the Revised Code. 937

Sec. 3718.041. An installer or manufacturer of a sewage 938
treatment system or component of a system the use of which has 939
been authorized in rules adopted under section 3718.02 of the 940
Revised Code may request from the director of health a written 941
statement acknowledging that the system or component of a system 942
is approved for use in this state and that the approval is 943
equivalent in all respects to the approval of a system or 944
component of a system under section 3718.04 of the Revised Code. 945
The director may approve or deny such a request as the director 946
determines appropriate. 947

Sec. 3718.05. The director of health shall do all of the 948
following: 949

(A) Administer and enforce this chapter and the rules of the 950
public health council adopted under it; 951

(B) Examine records of boards of health, in accordance with 952
rules adopted by the council, that are determined necessary to 953

ascertain compliance with this chapter and rules adopted under it; 954

(C) Review and approve or disapprove rules proposed by boards 955
of health under division (B) of section 3718.02 of the Revised 956
Code. The director shall not disapprove a proposed rule unless the 957
director determines that the proposed rule conflicts with this 958
chapter or rules adopted under section 3718.02 of the Revised Code 959
by the public health council or fails to promote public health or 960
environmental protection. If the director disapproves a proposed 961
rule, the director shall provide a written explanation of the 962
director's disapproval to the board of health that proposed the 963
rule. 964

(D) Survey boards of health as required by section 3718.07 of 965
the Revised Code; 966

(E) Develop with the sewage treatment system technical 967
advisory committee standards ~~and~~, guidelines, and protocols for 968
use by the director in approving or disapproving a sewage 969
treatment system under section 3718.04 of the Revised Code and an 970
application form for use by applicants for that approval, 971
including identification of the information that must be included 972
with the form; 973

(F) Provide instructions on the operation and maintenance of 974
a sewage treatment system. The director shall provide the 975
operation and maintenance instructions on the department of 976
health's web site. In addition, the director shall provide a copy 977
of the operation and maintenance instructions when the director 978
receives a written request for the instructions. 979

(G) Develop educational programs, in conjunction with boards 980
of health, to educate owners of sewage treatment systems regarding 981
the proper operation and maintenance of those systems. 982

Sec. 3718.06. (A)(1) A board of health shall establish fees 983

in accordance with section 3709.09 of the Revised Code for the 984
purpose of carrying out its duties under this chapter and rules 985
adopted under it, including ~~a fee~~ fees for ~~an~~ installation ~~permit~~ 986
permits, operation permits, and alteration permits issued by the 987
board. All fees so established and collected by the board shall be 988
deposited in a special fund of the district to be used exclusively 989
by the board in carrying out those duties. 990

(2) In accordance with Chapter 119. of the Revised Code, the 991
public health council may establish by rule a fee to be collected 992
from applicants for installation permits, operation permits, and 993
alteration permits issued under rules adopted under this chapter. 994
The director of health shall use not more than seventy-five per 995
cent of the proceeds from that fee for administering and enforcing 996
this chapter and the rules adopted under it by the council. The 997
director shall use not less than twenty-five per cent of the 998
proceeds from that fee to establish a program in cooperation with 999
boards of health to fund installation and evaluation of sewage 1000
treatment system new technology pilot projects through grants or 1001
other agreements. In the selection of pilot projects, the director 1002
shall consult with the sewage treatment system technical advisory 1003
committee. A board of health shall collect the fee at the same 1004
time that it collects the fee established by it under division 1005
(A)(1) of this section for installation, operation, and alteration 1006
permits. 1007

Not later than sixty days after the last day of the month in 1008
which an installation, operation, or alteration permit is issued, 1009
a board shall certify the amount collected under division (A)(2) 1010
of this section and transmit the amount to the treasurer of state. 1011
All money so received shall be deposited in the state treasury to 1012
the credit of the general operations fund created in section 1013
3701.83 of the Revised Code. The director shall use the money so 1014
credited ~~solely for the administration and enforcement of this~~ 1015

~~chapter and the rules adopted under it by the public health
council as required by this section.~~ 1016
1017

(B) The director may submit recommendations to the public 1018
health council regarding the amount of the fee collected under 1019
division (A)(2) of this section for installation, operation, and 1020
alteration permits. When making the recommendations, the director 1021
shall submit a report stating the current and projected expenses 1022
of administering and enforcing this chapter and the rules adopted 1023
under it ~~by the council~~ and of the sewage treatment system new 1024
technology pilot projects program established under this section 1025
and the total of all money that has been deposited to the credit 1026
of the general operations fund under division (A)(2) of this 1027
section. The director may include in the report any 1028
recommendations for modifying the requirements established under 1029
this chapter and the rules adopted under it by the council. 1030

Sec. 3718.09. (A) A board of health may issue, modify, 1031
suspend, or revoke enforcement orders to a registration or permit 1032
holder or other person directing the holder or person to abate a 1033
violation of this chapter, any rule adopted or order issued under 1034
it, or a condition of a registration or permit issued under it 1035
within a specified, reasonable time. If an order issued under this 1036
division is neglected or disregarded, the applicable board of 1037
health may proceed in accordance with section 3707.02 of the 1038
Revised Code. 1039

(B) The health commissioner or the commissioner's designated 1040
representative, without prior notice or hearing and in accordance 1041
with the rules of the public health council, may issue an 1042
emergency order requiring any action necessary to meet a public 1043
health emergency or to prevent or abate an imminent and 1044
substantial threat to surface water or ground water regarding 1045
domestic septage management or regarding a sewage treatment system 1046

that is being operated in a manner that does not comply with this 1047
chapter or rules adopted under it. A person to whom such an 1048
emergency order is issued immediately shall comply with the order. 1049
A person so ordered may apply to the issuer of the order for a 1050
hearing, which shall be held as soon as possible, but not later 1051
than twenty days after the issuer's receipt of the application for 1052
a hearing. 1053

(C) The director of health may file an injunctive action in a 1054
court of competent jurisdiction against a board of health that 1055
allows a sewage treatment system to cause a public health 1056
nuisance, provided that the director provides reasonable notice to 1057
the board and an opportunity to abate the nuisance prior to filing 1058
the action. 1059

Sec. 6117.51. If the board of health of the health district 1060
within which a new public sewer construction project is proposed 1061
or located passes a resolution stating that the reason for the 1062
project is to reduce or eliminate an existing health problem or a 1063
hazard of water pollution, the board of county commissioners of 1064
the county, by resolution, may order the owner of any premises 1065
located in a sewer district in the county, the owner's agent, 1066
lessee, or tenant, or any other occupant of the premises to 1067
connect the premises to the sewer for the purpose of discharging 1068
sewage or other waste that the board determines is originating on 1069
the premises, to make use of the connection, and to cease the 1070
discharge of the sewage or other waste into a cesspool, ditch, 1071
private sewer, privy, septic tank, semipublic disposal system as 1072
defined in division (B)(1)(a) of section 3709.085 of the Revised 1073
Code, or other outlet if the board finds that the sewer is 1074
available for use and is accessible to the premises following a 1075
determination and certification to the board by a registered 1076
professional engineer designated by it as to the availability and 1077
accessibility of the sewer. This section does not apply to any of 1078

the following: 1079

(A) Any discharge authorized by a permit issued under 1080
division (J) of section 6111.03 of the Revised Code other than a 1081
discharge to or from a semipublic disposal system as defined in 1082
division (B)(1)(a) of section 3709.085 of the Revised Code; 1083

(B) Wastes resulting from the keeping of animals; 1084

(C) Any premises that are not served by a common sewage 1085
collection system when the foundation wall of the structure from 1086
which sewage or other waste originates is more than ~~two~~ three 1087
hundred feet from the nearest boundary of the right-of-way within 1088
which the sewer is located; 1089

(D) Any premises that are served by a common sewage 1090
collection system when both the foundation wall of the structure 1091
from which the sewage or other waste originates and the common 1092
sewage collection system are more than ~~two~~ three hundred feet from 1093
the nearest boundary of the right-of-way within which the public 1094
sewer is located; 1095

(E) Any dwelling house located on property that is listed on 1096
the county's agricultural land tax list as being valued for tax 1097
purposes as land devoted exclusively to agricultural use under 1098
section 5713.31 of the Revised Code, when the foundation wall of 1099
the dwelling house is ~~two~~ three hundred feet or less from the 1100
nearest boundary of the right-of-way within which the sewer is 1101
located, if both of the following also apply: 1102

(1) The sewer right-of-way for the property on which the 1103
dwelling house is located was obtained by appropriation due to a 1104
public exigency pursuant to division (B) of section 307.08, 1105
6101.181, 6115.211, 6117.39, or 6119.11 of the Revised Code. 1106

(2) The local health department has certified that the 1107
~~household~~ sewage disposal system is functioning properly. 1108

The board shall not direct an order under this section to a resident tenant unless it determines that the terms of the tenancy are such that the owner lacks sufficient rights of access to permit the owner to comply with the terms of the order.

An owner, agent, lessee, tenant, or occupant shall comply with the order of the board within ninety days after the completion of service of the order upon that person as provided in this section. The board, upon written application filed prior to the expiration of the ninety-day period, may waive compliance with any order either temporarily or permanently and conditionally or unconditionally.

In its resolution, the board shall direct its clerk, or the clerk's designee, to serve its order upon the owner, agent, lessee, tenant, or occupant. Service of the order shall be made personally, by leaving the order at the usual place of residence with a person of suitable age and discretion then residing therein, or by certified mail addressed to the owner, agent, lessee, tenant, or occupant at that person's last known address or to the address to which tax bills are sent. If it appears by the return of service or the return of the order forwarded by certified mail that the owner, agent, lessee, tenant, or occupant cannot be found, that person shall be served by publication of the order once in a newspaper of general circulation within the county, or if that person refuses service, that person shall be served by ordinary mail addressed to that person's last known address or to the address to which tax bills are sent. The return of the person serving the order or a certified copy of the return, or a returned receipt for the order forwarded by certified mail accepted by the addressee or anyone purporting to act for the addressee, is prima-facie evidence of the service of the order under this section. The return of the person attempting to serve the order, or the return to the sender of the order forwarded by

certified mail with an indication on the return of the refusal of 1141
the addressee to accept delivery, is prima-facie evidence of the 1142
refusal of service. 1143

No owner, agent, lessee, tenant, or occupant shall violate an 1144
order issued under this section. Upon request of the board, the 1145
prosecuting attorney shall prosecute in a court of competent 1146
jurisdiction any owner, agent, lessee, tenant, or occupant who 1147
violates an order issued under this section. Each day that a 1148
violation continues after conviction for the violation of an order 1149
issued under this section and the final determination thereof is a 1150
separate offense. The court, for good cause shown, may grant a 1151
reasonable additional period of time for compliance after 1152
conviction. 1153

Any owner, agent, lessee, tenant, or occupant violating an 1154
order issued under this section also may be enjoined from 1155
continuing in violation. Upon request of the board, the 1156
prosecuting attorney shall bring an action in a court of competent 1157
jurisdiction for an injunction against the owner, agent, lessee, 1158
tenant, or occupant violating an order. 1159

The Ohio water development authority created under section 1160
6121.02 of the Revised Code, in addition to its other powers, has 1161
the same power and shall be governed by the same procedures in a 1162
waste water facilities service area, or in any area adjacent to a 1163
public sewer operated by the authority, as a board of county 1164
commissioners in a county sewer district under this section, 1165
except that the authority shall act by order, and the attorney 1166
general, upon request of the authority, shall prosecute any person 1167
who violates an order of the authority issued under this section. 1168

Section 2. That existing sections 711.05, 711.10, 3718.01, 1169
3718.02, 3718.03, 3718.04, 3718.05, 3718.06, 3718.09, and 6117.51 1170
of the Revised Code are hereby repealed. 1171

Section 3. That Section 120.05 of Am. Sub. H.B. 119 of the 127th General Assembly be amended to read as follows:

Sec. 120.05. Sections 120.03 and 120.04 of Am. Sub. H.B. 119 of the 127th General Assembly take effect on July 1, 2009 the effective date of S.B. of the 128th General Assembly.

Section 4. That existing Section 120.05 of Am. Sub. H.B. 119 of the 127th General Assembly is hereby repealed.

Section 5. That Section 120.01 of Am. Sub. H.B. 119 of the 127th General Assembly is hereby repealed.

Section 6. The purpose of Section 5 of this act is to provide for reinstating the operation of sections 3718.02, 3718.05, 3718.06, 3718.07, 3718.08, 3718.09, 3718.10, 3718.99, and 6111.441 of the Revised Code on the effective date of this act rather than on July 1, 2009, as provided in Section 120.01 of Am. Sub. H.B. 119 of the 127th General Assembly.

Section 7. That Section 120.02 of Am. Sub. H.B. 119 of the 127th General Assembly is hereby repealed.

Section 8. That sections 711.05 and 711.10 of the Revised Code, which are scheduled to take effect on July 1, 2009, be amended to read as follows:

Sec. 711.05. (A) Upon the submission of a plat for approval, in accordance with section 711.041 of the Revised Code, the board of county commissioners shall certify on it the date of the submission. Within five days of submission of the plat, the board shall schedule a meeting to consider the plat and send a written notice by regular mail to the fiscal officer of the board of

township trustees of the township in which the plat is located and 1198
the board of health of the health district in which the plat is 1199
located. The notice shall inform the trustees and the board of 1200
health of the submission of the plat and of the date, time, and 1201
location of any meeting at which the board of county commissioners 1202
will consider or act upon the proposed plat. The meeting shall 1203
take place within thirty days of submission of the plat, and no 1204
meeting shall be held until at least seven days have passed from 1205
the date the notice was sent by the board of county commissioners. 1206
The approval of the board required by section 711.041 of the 1207
Revised Code or the refusal to approve shall take place within 1208
thirty days from the date of submission or such further time as 1209
the applying party may agree to in writing; otherwise, the plat is 1210
deemed approved and may be recorded as if bearing such approval. 1211

(B) The board may adopt general rules governing plats and 1212
subdivisions of land falling within its jurisdiction, to secure 1213
and provide for the coordination of the streets within the 1214
subdivision with existing streets and roads or with existing 1215
county highways, for the proper amount of open spaces for traffic, 1216
circulation, and utilities, and for the avoidance of future 1217
congestion of population detrimental to the public health, safety, 1218
or welfare, but shall not impose a greater minimum lot area than 1219
forty-eight hundred square feet. Before the board may amend or 1220
adopt rules, it shall notify all the townships in the county of 1221
the proposed amendments or rules by regular mail at least thirty 1222
days before the public meeting at which the proposed amendments or 1223
rules are to be considered. 1224

The rules may require the board of health to review and 1225
comment on a plat before the board of county commissioners acts 1226
upon it and may also require proof of compliance with any 1227
applicable zoning resolutions, and with ~~household~~ sewage treatment 1228
rules adopted under section 3718.02 of the Revised Code, as a 1229

basis for approval of a plat. Where under section 711.101 of the Revised Code the board of county commissioners has set up standards and specifications for the construction of streets, utilities, and other improvements for common use, the general rules may require the submission of appropriate plans and specifications for approval. The board shall not require the person submitting the plat to alter the plat or any part of it as a condition for approval, as long as the plat is in accordance with general rules governing plats and subdivisions of land, adopted by the board as provided in this section, in effect at the time the plat was submitted and the plat is in accordance with any standards and specifications set up under section 711.101 of the Revised Code, in effect at the time the plat was submitted.

(C) The ground of refusal to approve any plat, submitted in accordance with section 711.041 of the Revised Code, shall be stated upon the record of the board, and, within sixty days thereafter, the person submitting any plat that the board refuses to approve may file a petition in the court of common pleas of the county in which the land described in the plat is situated to review the action of the board. A board of township trustees is not entitled to appeal a decision of the board of county commissioners under this section.

Sec. 711.10. (A) Whenever a county planning commission or a regional planning commission adopts a plan for the major streets or highways of the county or region, no plat of a subdivision of land within the county or region, other than land within a municipal corporation or land within three miles of a city or one and one-half miles of a village as provided in section 711.09 of the Revised Code, shall be recorded until it is approved by the county or regional planning commission under division (C) of this section and the approval is endorsed in writing on the plat.

(B) A county or regional planning commission may require the
submission of a preliminary plan for each plat sought to be
recorded. If the commission requires this submission, it shall
provide for a review process for the preliminary plan. Under this
review process, the planning commission shall give its approval,
its approval with conditions, or its disapproval of each
preliminary plan. The commission's decision shall be in writing,
shall be under the signature of the secretary of the commission,
and shall be issued within thirty-five business days after the
submission of the preliminary plan to the commission. The
disapproval of a preliminary plan shall state the reasons for the
disapproval. A decision of the commission under this division is
preliminary to and separate from the commission's decision to
approve, conditionally approve, or refuse to approve a plat under
division (C) of this section.

(C) Within five calendar days after the submission of a plat
for approval under this division, the county or regional planning
commission shall schedule a meeting to consider the plat and send
a notice by regular mail or by electronic mail to the fiscal
officer of the board of township trustees of the township in which
the plat is located and the board of health of the health district
in which the plat is located. The notice shall inform the trustees
and the board of health of the submission of the plat and of the
date, time, and location of any meeting at which the county or
regional planning commission will consider or act upon the plat.
The meeting shall take place within thirty calendar days after
submission of the plat, and no meeting shall be held until at
least seven calendar days have passed from the date the planning
commission sent the notice.

The approval of the county or regional planning commission,
the commission's conditional approval as described in this
division, or the refusal of the commission to approve shall be

endorsed on the plat within thirty calendar days after the 1294
submission of the plat for approval under this division or within 1295
such further time as the applying party may agree to in writing; 1296
otherwise that plat is deemed approved, and the certificate of the 1297
commission as to the date of the submission of the plat for 1298
approval under this division and the failure to take action on it 1299
within that time shall be sufficient in lieu of the written 1300
endorsement or evidence of approval required by this division. 1301

A county or regional planning commission may grant 1302
conditional approval under this division to a plat by requiring a 1303
person submitting the plat to alter the plat or any part of it, 1304
within a specified period after the end of the thirty calendar 1305
days, as a condition for final approval under this division. Once 1306
all the conditions have been met within the specified period, the 1307
commission shall cause its final approval under this division to 1308
be endorsed on the plat. No plat shall be recorded until it is 1309
endorsed with the commission's final or unconditional approval 1310
under this division. 1311

The ground of refusal of approval of any plat submitted under 1312
this division, including citation of or reference to the rule 1313
violated by the plat, shall be stated upon the record of the 1314
county or regional planning commission. Within sixty calendar days 1315
after the refusal under this division, the person submitting any 1316
plat that the commission refuses to approve under this division 1317
may file a petition in the court of common pleas of the proper 1318
county, and the proceedings on the petition shall be governed by 1319
section 711.09 of the Revised Code as in the case of the refusal 1320
of a planning authority to approve a plat. A board of township 1321
trustees is not entitled to appeal a decision of the commission 1322
under this division. 1323

A county or regional planning commission shall adopt general 1324
rules, of uniform application, governing plats and subdivisions of 1325

land falling within its jurisdiction, to secure and provide for 1326
the proper arrangement of streets or other highways in relation to 1327
existing or planned streets or highways or to the county or 1328
regional plan, for adequate and convenient open spaces for 1329
traffic, utilities, access of firefighting apparatus, recreation, 1330
light, and air, and for the avoidance of congestion of population. 1331
The rules may provide for their modification by the commission in 1332
specific cases where unusual topographical and other exceptional 1333
conditions require the modification. The rules may require the 1334
board of health to review and comment on a plat before the 1335
commission acts upon it and also may require proof of compliance 1336
with any applicable zoning resolutions, and with household sewage 1337
treatment rules adopted under section 3718.02 of the Revised Code, 1338
as a basis for approval of a plat. 1339

Before adoption of its rules or amendment of its rules, the 1340
commission shall hold a public hearing on the adoption or 1341
amendment. Notice of the public hearing shall be sent to all 1342
townships in the county or region by regular mail or electronic 1343
mail at least thirty business days before the hearing. No county 1344
or regional planning commission shall adopt any rules requiring 1345
actual construction of streets or other improvements or facilities 1346
or assurance of that construction as a condition precedent to the 1347
approval of a plat of a subdivision unless the requirements have 1348
first been adopted by the board of county commissioners after a 1349
public hearing. A copy of the rules shall be certified by the 1350
planning commission to the county recorders of the appropriate 1351
counties. 1352

After a county or regional street or highway plan has been 1353
adopted as provided in this section, the approval of plats and 1354
subdivisions provided for in this section shall be in lieu of any 1355
approvals provided for in other sections of the Revised Code, 1356
insofar as the territory within the approving jurisdiction of the 1357

county or regional planning commission, as provided in this 1358
section, is concerned. Approval of a plat shall not be an 1359
acceptance by the public of the dedication of any street, highway, 1360
or other way or open space shown upon the plat. 1361

No county or regional planning commission shall require a 1362
person submitting a plat to alter the plat or any part of it as 1363
long as the plat is in accordance with the general rules governing 1364
plats and subdivisions of land, adopted by the commission as 1365
provided in this section, in effect at the time the plat is 1366
submitted. 1367

A county or regional planning commission and a city or 1368
village planning commission, or platting commissioner or 1369
legislative authority of a village, with subdivision regulation 1370
jurisdiction over unincorporated territory within the county or 1371
region may cooperate and agree by written agreement that the 1372
approval of a plat by the city or village planning commission, or 1373
platting commissioner or legislative authority of a village, as 1374
provided in section 711.09 of the Revised Code, shall be 1375
conditioned upon receiving advice from or approval by the county 1376
or regional planning commission. 1377

(D) As used in this section, "business day" means a day of 1378
the week excluding Saturday, Sunday, or a legal holiday as defined 1379
in section 1.14 of the Revised Code. 1380

Section 9. That existing sections 711.05 and 711.10 of the 1381
Revised Code, which are scheduled to take effect on July 1, 2009, 1382
are hereby repealed. 1383

Section 10. Sections 8 and 9 of this act take effect July 1, 1384
2009. 1385

Section 11. Not later than thirty days after the effective 1386

date of this section, the Governor, President of the Senate, and 1387
Speaker of the House of Representatives shall appoint the new 1388
members to the Sewage Treatment System Technical Advisory 1389
Committee that are required to be appointed under section 3718.03 1390
of the Revised Code as amended by this act. 1391

The Governor shall appoint the person representing a 1392
statewide organization representing townships for an initial term 1393
of one year. Thereafter, the person appointed to that position 1394
shall be appointed to a three-year term as required by section 1395
3718.03 of the Revised Code. 1396

The President of the Senate shall appoint the person who is 1397
required to have demonstrated experience in the design of 1398
household sewage treatment systems for an initial term of two 1399
years. Thereafter, the person appointed to that position shall be 1400
appointed to a three-year term as required by section 3718.03 of 1401
the Revised Code. 1402

The Speaker of the House of Representatives shall appoint the 1403
person that is required to be a registered professional engineer 1404
with experience in sewage treatment systems for an initial term of 1405
three years. Thereafter, the person appointed to that position 1406
shall be appointed to a three-year term as required by section 1407
3718.03 of the Revised Code. 1408

Section 12. This act is hereby declared to be an emergency 1409
measure necessary for the immediate preservation of the public 1410
peace, health, and safety. The reason for such necessity is that 1411
provisions of law that were suspended by the enactment of Am. Sub. 1412
H.B. 119 of the 127th General Assembly are scheduled to be 1413
reinstated on July 1, 2009, and this act is necessary to revise 1414
the law governing sewage treatment systems prior to that date. 1415
Therefore, this act shall go into immediate effect. 1416