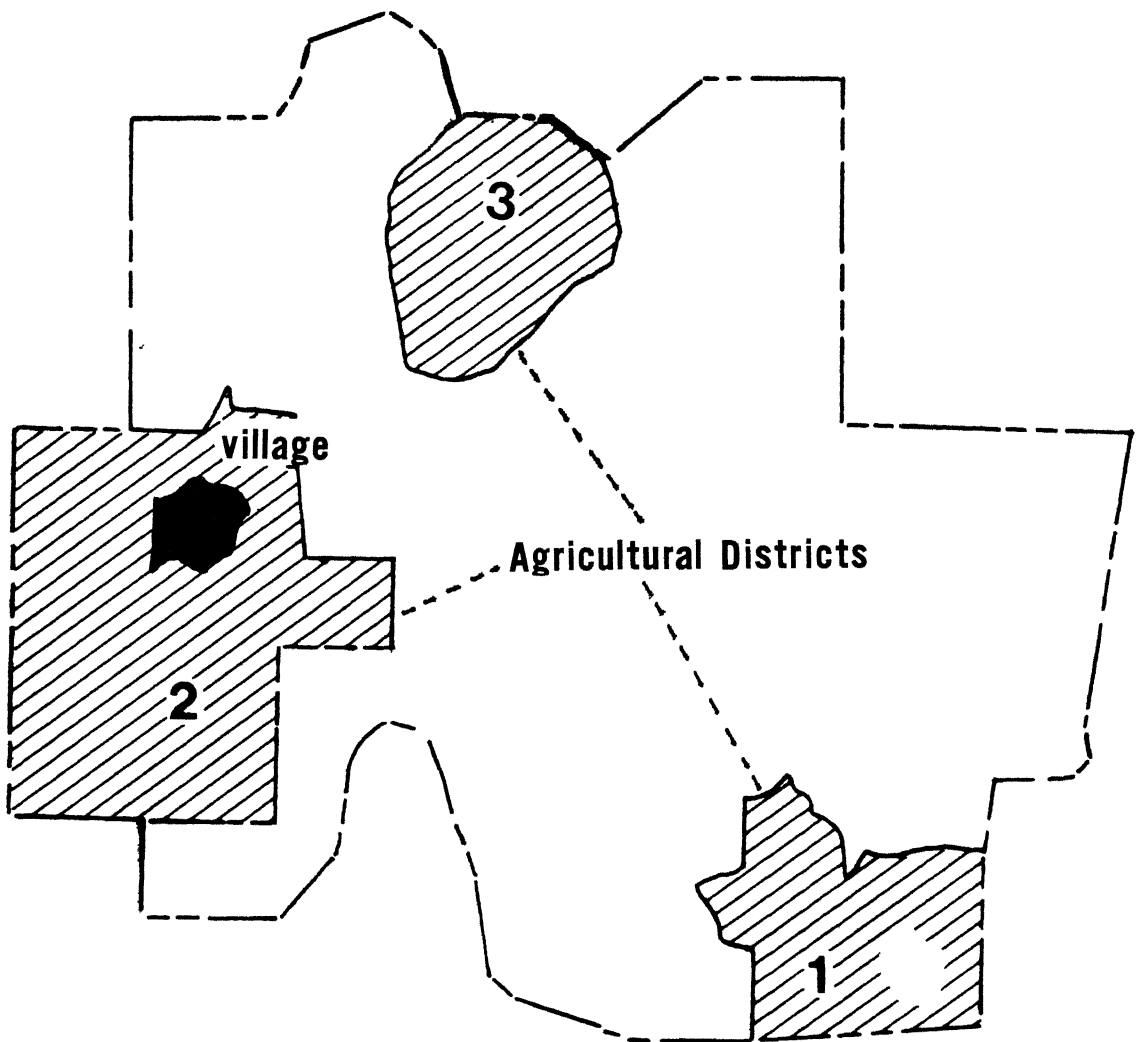


**THE LOCAL GOVERNMENT PLANNING AND DEVELOPMENT ACT
SENATE BILL 480**



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1978**

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AGRICULTURAL DISTRICTS IN OHIO - SENATE BILL 480

John B. Mitchell and Albert R. Pugh

People in Ohio are concerned about the land and how it is being used. Agricultural land is sensitive to changing land use patterns and the increasing competition for land. Prime farm land covers large areas of Ohio and affects many people.

Ohio's senators and representatives are addressing this situation. A bill concerning farm land was introduced into the legislature this year. Senate Bill 480, "The Local Government Planning and Development Act of 1978," proposes to initiate a program which will allow agricultural land to be placed in an agricultural district. A proposed land use policy is contained in these statements:

Commercial agricultural lands are finite and irreplaceable resource and to the maximum extent possible they should be maintained and preserved for the production of food and fiber.

The actions of state and local governments should be directed toward the maintainance and preservation of productive agricultural land.

Here are questions and answers about agricultural districts:

1. WHAT IS AN AGRICULTURAL DISTRICT AND HOW IS ONE FORMED?

An agricultural district consists of 500 or more acres of land pledged to remain in farm use for eight years. Most of the acreage must be classified as prime land. On a voluntary basis, one or more owners of 500 or more acres of land in one or more counties prepare a request to the county commissioners.

2. WHAT IS CONTAINED IN THE REQUEST?

It includes a petition containing the names of those wishing to form a district and a map showing all land in the proposed district.

3. WHAT IS THE NEXT STEP?

The County Commissioners have the Countywide Planning Commission and the Agricultural District Advisory Committee review the proposal.

4. WHO IS ON THE AGRICULTURAL DISTRICT ADVISORY COMMITTEE?

The Advisory Committee is composed of 13 members appointed by the County Commissioners. A Commissioner serves as an ex officio member and chairman of this committee. A County Extension Agent also serves as an ex officio member. Other members include a Soil and Water Conservation District supervisor, four farmers, two nonfarmers engaged in business related to the production, marketing, or distribution of agricultural products, two persons who reside outside municipal corporations, a person nominated by a majority of the towns within the county, and a person to represent the general public.

5. DOES THE STATE HAVE A ROLE IN THE APPROVAL OF AN AGRICULTURAL DISTRICT?

Yes, a copy of the proposal is sent to the Governor. He sends copies to the Department of Agriculture and the State Clearinghouse. The Department of Agriculture advises the Governor whether the proposed district consists primarily of viable agricultural land. The State Clearinghouse circulates the proposal among state agencies for their comments as to whether the proposal is reasonable and consistent with state policies. The State Clearinghouse assembles the comments and sends them to the Governor's office.

The Governor sends a written notice of his decision and reasons for his recommendation to the County Commissioners.

6. HOW LONG MUST A LANDOWNER BELONG TO THE AGRICULTURAL DISTRICT?

One must sign up for eight years.

7. IS THERE A PENALTY IF THE LANDOWNER WANTS OUT OF THE AGRICULTURAL DISTRICT BEFORE THE EIGHT YEARS IS UP?

Yes, if a person converts part of his land to other uses before the eight years have passed, he pays a penalty. A portion of the tax savings upon all eligible land used for agricultural purposes that is owned by this person and forms a contiguous whole with the converted land shall be recouped.

8. WHAT WILL THE LANDOWNER GAIN BY FORMING AN AGRICULTURAL DISTRICT?

- A. All State agencies, municipalities, counties, townships, and other political subdivisions shall conform their rules and regulations to encourage the maintenance of viable farm land in agricultural districts.
- B. No public or private agency shall appropriate more than one hundred acres currently used for farm purposes in an agricultural district, or more than ten acres under one ownership. None of the above mentioned organizations or persons, shall advance a grant, loan, or other distribution of public funds within an agricultural district for the construction of housing, commercial or industrial facilities.
- C. No public body with authority to levy taxes or special assessments on real property shall levy either for purposes of sewer, water, or electrical service on property used for agricultural production within an agricultural district unless the tax was imposed before the property was included in a district. A lot not exceeding one-half acre surrounding a dwelling or other nonagricultural building can be taxed or is subject to special assessments.

9. IS THERE A CHARGE LEVIED ON EACH AGRICULTURAL DISTRICT?

No

10. WHAT HAPPENS AT THE END OF EIGHT YEARS?

The Commissioners review the status of the district and ask for recommendations from the planning commission and agricultural district advisory committee. After a public hearing and a review of reports from these two bodies, the County Commissioners may adopt a resolution terminating the district, or they may modify the district. The modified district would continue for another eight years.

Landowners may withdraw their land from the district at the end of any eight-year period. They write the Commissioners of their intentions.

11. WILL THE LANDOWNER IN THE AGRICULTURAL DISTRICT BE ELIGIBLE FOR THE CURRENT AGRICULTURAL USE VALUE TAX RATE?

Yes and once signed up he does not have to renew it each year.

12. CAN A LANDOWNER OF AGRICULTURAL LAND CONTINUE WITH CAUV IF HE DROPS OUT OF THE AGRICULTURAL DISTRICT?

Yes, if the land is classified as eligible land devoted exclusively to agricultural use. The owner must pay a \$10.00 fee the first year and a \$2.00 fee thereafter.

13. WHO DECIDES WHAT LAND IS "ELIGIBLE" TO BE INCLUDED UNDER CAUV?

The County Agricultural Advisory Committee or Countywide Planning Commission.

14. I'VE HEARD THERE ARE AGRICULTURAL DISTRICTS IN NEW YORK.

Yes, legislation enabling rural landowners to form agricultural districts was passed in 1971. By last fall 344 districts containing five million acres had been organized. Slightly over 15,000 farms were represented in these districts.

CREATING AN AGRICULTURAL DISTRICT

PROPERTY OWNERS

On a voluntary basis, the owner or owners of 500 acres of land prepare and submit a request to the County Commissioners.

The request includes a petition containing names of those wishing to form a district and a map showing land in the proposed district.

The majority of land must be productive agricultural land; i.e., prime or mostly classes I, II and III.

COUNTY COMMISSIONERS

1. Receive request from property owners.
2. Appoint Agricultural Advisory Committee
3. Issue notice of public hearing
4. Refer request to County Planning Commission and Advisory Committee
5. Receive reports from Planning Commission and Advisory Committee
6. Hold Public Hearing
7. Consider reports and hearing summary
8. May modify original proposal
9. Adopt District Plan
10. Submit Plan to State Agency
11. Receive Certification (or modification) of plan from State Agency
12. May hold public hearing - must if plan is modified by State Agency
13. District becomes effective unless disapproved by County Commissioners
14. Description of District filed with County Clerk and State Agency
15. Review District for continuation, modification or termination every 8 yrs.

COUNTY PLANNING COMMISSION

1. Consider --
 - (a) Land in farming in district.
 - (b) Land not being farmed in district.
 - (c) Nature and extent of use of nonfarm land.
 - (d) County developmental plans and needs
 - (e) Other relevant matters
2. Develops recommendations on proposed district.
3. Submits report to County Commissioners

AGRICULTURAL ADVISORY COMMITTEE

1. Works with County Planning Commission.
2. Consider --
 - (a) Land in farming in district.
 - (b) Land not being farmed in district.
 - (c) Nature and extent of use of nonfarm land.
 - (d) Nature and extent of farming and farm resources within the district.
 - (e) Relation of farming in district to farming in county as a whole.
3. Develops recommendations on proposed district.
4. Submits report to County Commissioners



RURAL ZONING IN OHIO - SENATE BILL 480

Albert R. Pugh and John B. Mitchell

Rural Zoning as a land use control method has been available to the people of Ohio since 1947. The law has basically remained the same over these many years. Currently over one half of the townships in Ohio have adopted rural zoning. A change in the laws governing rural zoning has been introduced in the legislature.

One section of Senate Bill 480 The Local Government Planning and Development Act of 1978 considers rural zoning. Some of the provisions are new and others follow enabling legislation adopted in 1947.

Here are questions and answers concerning this proposed legislation.

1. ANY CHANGES IN PROCEDURES WHEREBY ZONING GOES INTO AFFECT?

Yes, once a county wide plan has been prepared the commissioners can adopt a resolution declaring their intention of proceeding with rural zoning. The commissioners by a majority vote can adopt county zoning. They must adopt such a resolution if presented with a petition signed by persons representing at least eight percent of the vote cast in the last general election for Governor. See diagram attached for the procedural change.

2. WHAT ABOUT TOWNSHIPS?

The procedure is the same as for counties.

3. WHAT ABOUT THE POSITION OF ZONING INSPECTORS?

Where counties have a building inspector this person is to serve as the zoning inspector. Where zoning is on a township basis the township clerk shall be the zoning inspector.

4. WHAT ABOUT THE 13 COUNTIES WITH COUNTYWIDE ZONING?

Similar to provisions for townships except the county zoning commission is abolished and their duties are assigned to the county planning commission.

5. ANY CHANGE IN ZONING REGARDING FARMING?

No, just as before commissioners and trustees can not restrict agricultural uses or require a zoning certificate for farm buildings. Farm operators can build hog houses, corn cribs, barns and other out buildings without having to get a zoning certificate. Rural zoning only regulates the house and building related to the home.

6. WILL ZONING GET RID OF AN EYE SORE IN THE COUNTY OR A TOWNSHIP?

No, zoning applies to the future use of land.

7. WHAT CAN PEOPLE IN A TOWNSHIP WITH RURAL ZONING DO IF THE COUNTY COMMISSIONERS ADOPT A ZONING RESOLUTION?

The zoning adopted earlier by vote of rural residents takes precedence over the resolution adopted by the Commissioners. However, township residents may vote to replace the township zoning with county zoning.

8. IS THERE MUCH EMPHASIS ON PLANNING AS WELL AS ZONING?

Yes, each county must create a county-wide planning commission. The commission must develop and adopt plans which include platting, subdivision, zoning, and building regulations. In addition, all townships with rural zoning shall form a planning commission and others may form one as stated in Senate Bill 480. The plan must conform to the Regional Plan.

9. HOW DOES THIS PLANNING WORK RELATE TO OTHER UNITS OF LOCAL GOVERNMENT?

Township and municipal plans must conform to these regulations.

10. WHAT ABOUT TOWNSHIP PLANNING?

Every township that has township rural zoning shall create a five member planning commission and abolish the rural zoning commission. Townships without zoning may appoint a planning commission.

11. ARE THERE DISADVANTAGES TO ZONING?

Zoning resolutions affect the future of an area. If zoning resolutions are based on inadequate planning, they can have a bad effect on the area.

Zoning is no better than the people responsible for administering it. The zoning must be enforced to be really successful. Good administration is as important as the preparation of sound plans.

Some shortcomings of zoning can happen after its approval.

The commissioners or trustees may not be informed or interested in enforcement of ordinances.

The zoning inspector may know little or nothing about the zoning requirements.

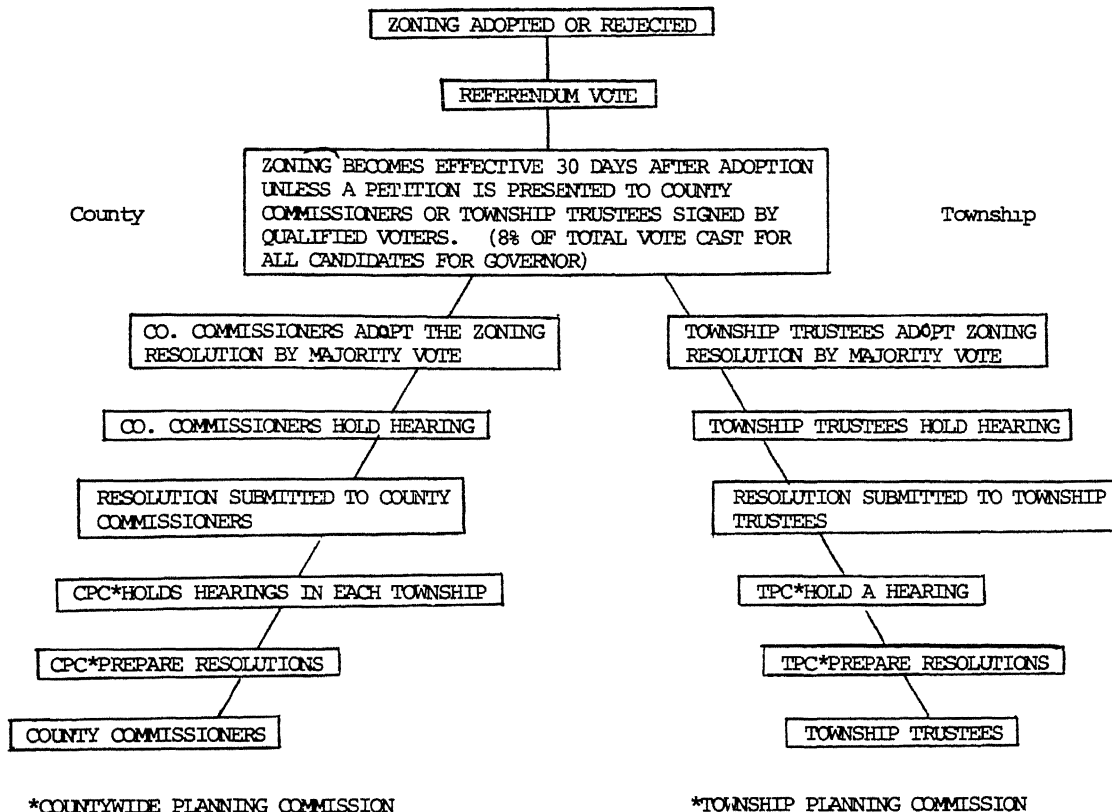
A Zoning Board of Appeals may approve every request they receive.

12. WHAT ARE SOME OF THE LONG-RANGE BENEFITS FROM GOOD ZONING?

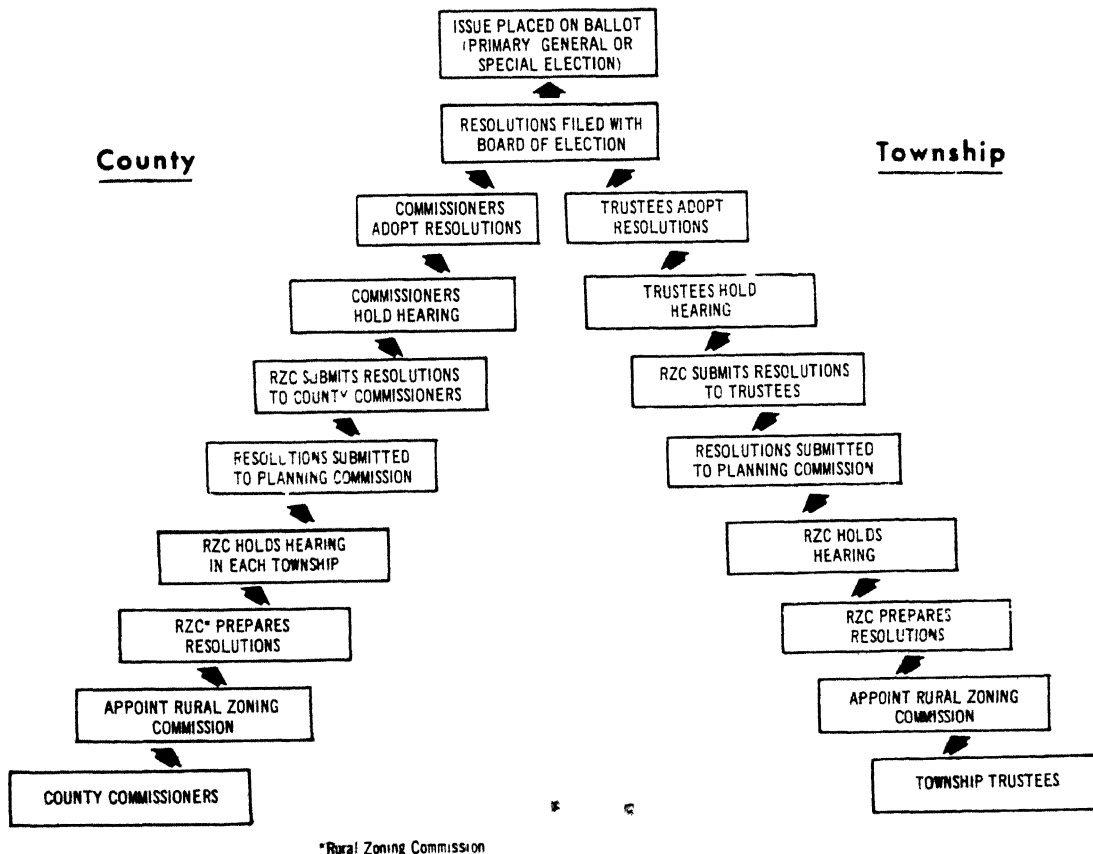
Zoning allows the people to decide how they want their community to grow and develop. It reduces the likelihood of haphazard suburban growth occurring in rural areas. Investments in farms, homes, and businesses are protected from conflicting land uses and activities. It helps make communities better places in which to live, work and play.

The establishment of suitable kinds of districts for agriculture, residences and businesses provides a firm foundation for the best development of all resources. Zoning prevents agricultural areas from becoming dumping grounds for land uses not wanted elsewhere.

STEPS IN THE ADOPTION OF RURAL ZONING
PROPOSED LEGISLATION



CURRENT PROCEDURE



Large Scale Development in Ohio - Senate Bill 480

Albert R. Pugh

The people of Ohio are facing changing land use patterns, increasing competition for the use of land and the implications of land use decisions for the quality of life in their community. Large scale development in Ohio is one of those land use changes that is having an impact on local people. Private or public development such as a metropolitan airport, a large subdivision, lake development or a major industrial plant can alter development patterns and change the entire community.

Senate Bill 480, The Local Government Planning and Development Act of 1978, proposes legislation which would regulate large scale development throughout Ohio.

A large-scale development includes all major development in Ohio as determined by the areawide or countywide planning commission.

The standards for determining a large scale development must be based on, (1) the availability of adequate water and sanitary sewerage facilities; (2) the adequacy of storm water management; (3) the transportation system serving the area; and (4) the impact on public schools.

(1) A manufacturing, processing, or other industrial plant or park or a research facility that either occupies fifty or more acres of land, employs six hundred or more employees, or requires central water and sewer services, but is to be located outside an area being served by such services;

(2) A shopping center, trade center, office park, or retail, wholesale, or other commercial or business establishment that occupies thirty or more acres of land or encompasses three hundred thousand or more square feet of gross floor area, provides one thousand five hundred or more parking spaces, or occupies ten or more acres of land and requires central water and sewer services but is to be located outside an area being served by existing water and sewer services;

(3) A multifamily residential development, planned unit development, or mobile home park, that either occupies one hundred or more acres of land or provides two hundred or more dwelling units and that, in either case, is located in an area being served by existing water and sewer services;

(4) A residential development, including a single or multifamily residential development, planned unit development, or mobile home park, that is located outside an area being served by existing water and sewer services and is comprised of fifty or more dwelling units;

- (5) A new community or new community development program;
- (6) A civic, sports, entertainment, amusement, or recreational facility that occupies fifty or more acres of land, accommodates three thousand or more people for any single performance, and provides three thousand or more fixed seats;
- (7) A hospital, convalescent center, or nursing home with a design capacity of five hundred or more beds;
- (8) A hotel or motel with a design capacity of two hundred or more beds;
- (9) A public or private college, university, technical college, or other institution of higher education that provides for a population of three thousand or more full-time students;
- (10) A public airport;
- (11) A marina capable of accommodating more than one hundred watercraft;
- (12) A recreational port or harbor located in a critical area designated;
- (13) A waterway impoundment or diversion project that inundates land in more than one county, municipal corporation, or township, or is proposed in a critical area designated or in a body of water classified by the director of environmental protection as of high quality water use standards;
- (14) A flood control project, dam, reservoir, levee, or debris basin that interferes with at least fifty percent of the average, seasonal stream flow in mainstems of drainage courses in more than one county, municipal corporation, or township;
- (15) A solid waste disposal site or facility serving more than one county, municipal corporation, or township;
- (16) A mining operation encompassing fifty or more acres of land or proposed in a critical area designated;
- (17) Any public or private development that requires the expansion of central water or sewer services, or both, outside an urban service area currently designated in the countywide general plan.

This Bill gives local citizens and officials an opportunity to review and be involved in the approval of large scale developments. Also, it provides for the assessment of the impact on the local community.

This bill establishes a "one-stop" permit procedure whereby a developer need obtain only one authorization, from a single authority before constructing or expanding a "large-scale" development. One hundred and thirty eight days may be required to complete the application, hearings and receive approval for a large scale development through local and state authorities.

Procedure for approval of a Large Scale Development

1. Developer notifies the Areawide or Countywide Planning Commission of his intent to develop or expand. The notification should include a description of the location, use and size of the development.
2. The Areawide or Countywide Planning Commission shall prepare an impact statement. A copy is sent to all units of Government and to each approving authority of the state. In addition a notice of intent to develop is sent to state authorities.
3. The local and state government commission is to develop the application form. Only one application form will be needed to get approval of a large scale development.
4. Each unit of government may participate in the review proceedings. A temporary project advisory committee shall be formed by the countywide planning commission.
 - a. One representative from each approving unit of government where the large scale development is proposed.
 - b. One representative from each unit of government that gave notice of its intention to participate.
 - c. One representative appointed by the director for each approving state authority.
5. An application form will be completed by the developer with the assistance of the advisory committee.
6. Public hearing held on the project.
7. The committee's recommendation and the application are submitted to the areawide or countywide planning commission.
8. Before approval, the commission is to hold a public hearing on the project.

In summary, each application will be studied by the project advisory committee. A public hearing will be held on the project before it is approved. This allows local people to voice their approval or disapproval of the project. Also, each unit of government will be allowed to evaluate the project and its impact on the community.

This procedure provides each community and the general public an opportunity to participate in evaluating all major developments in the area

Critical Natural Resource Areas in Ohio - Senate Bill 480

Albert R. Pugh

Each county in Ohio contains critical resource areas which are environmentally significant to the future growth of this state. The geologic and cultural history of Ohio has created a number of unique areas of interest. In addition, all of these areas are irreplaceable and upon being diverted to other uses are lost forever.

Senate Bill 480 (House Bill 1238), The Local Government Planning and Development Act of 1978 proposes to regulate critical natural resource areas in Ohio such as:

1. Ground water areas where aquifers are present.
2. Flood hazard areas based on 100 year flood.
3. Geological hazard areas - steep slopes, poor drainage, unstable soil, and other hazard areas.
4. Mineral resource areas - sand, gravel, limestone, or quarry aggregate.
5. River corridors.
6. Natural land and water with unique character.
7. Wetlands - marshes, swamps, bogs and wetlands with high water table.

Regulation of these areas are important since irreversable damage can decrease its value and utility. The Department of Natural Resources shall maintain a county by county inventory of the critical natural resource areas. Criteria for each area shall be adopted, amended or rescinded by the Director of Natural Resources.

Any person, county, township, municipal corporation, local, state or federal agency may recommend the nomination of a critical area or recommend a previous designated area be abolished.

The Countywide Planning Commission shall submit a resolution nominating a critical area or rescinding an area. Each land owner within the area shall be notified along with one notice of the nomination in the local newspaper. A public hearing must follow which allows the general population to voice support or opposition.

A majority vote of the Countywide Planning Commission is needed to approve a designated area. Once an area is designated, the legislative authorities and Department of Natural Resources shall prepare a management plan. No development shall take place in the designated area unless it is in accordance with the management plan. The management plan shall be incorporated in the local governmental regulations.

Procedure for Establishing a Critical Area

1. Director of Natural Resources adopt the criteria for a designated area and maintains a county-by-county inventory of critical areas.
2. Data on critical areas is furnished to each Countywide Planning Commission.
3. Critical areas must be nominated by the Countywide Planning Commission. Recommendations can be made to the Countywide Planning Commission by any person or unit of government.
4. Nominations are sent to State Clearinghouse and Department of Natural Resources for a detailed evaluation.
5. Countywide Planning Commission must notify all landowners within the designated area.
6. After receiving the evaluation from the Department of Natural Resources, the Countywide Planning Commission must hold a public hearing on the designated areas before approving or rejecting the area nominated.
7. The area is to be managed by the local unit of government (township, municipality, or county) in which it is located.
8. All rules and regulations must be amended to protect the designated area.