



COUNTY ADVISORY BULLETIN

CAB

Published by: County Commissioners Association of Ohio

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Bulletin 2005-02

April 2005

SENATE BILL 115 GRANTS NEW AUTHORITY TO ADOPT RULES PERTAINING TO LOTS OVER FIVE ACRES AND MAKES OTHER CHANGES TO THE COUNTY SUBDIVISION LAW

Lead Sponsor: Senator Bob Gardner (R-Madison).

Co-Sponsors: Representatives Combs (R-Hamilton), Daniels (R-Greenfield), Schmidt (R-Loveland), Wolpert (R-Hilliard).

Effective Date: April 15, 2005.

Revised Code Sections Affected: 505.75, 711.001, 711.10, 711.131, 711.132, 713.21 and 713.22 (amended), and 711.133 enacted.

Introduction

After over three decades of attempts to make basic changes to Ohio's subdivision regulation enabling statute, the General Assembly has enacted Amended Substitute S. B. 115 of the 125th General Assembly, which has been signed by the Governor and will take effect on April 15, 2005.

The legislation was sponsored by Senator Bob Gardner (R-Madison), a former Lake County Commissioner. The bill was passed by a unanimous vote in the Senate. In the House, however, concerns about the bill were expressed by a number of interests.

The bill was finally passed late in the session thanks to the work of Representative Larry Wolpert (R-Hilliard), Chair, and Representative Dave Daniels (R-Greenfield), Vice Chair of the House County and Township Government Committee. Representative Daniels is a former Highland County Commissioner. The purpose of this County Advisory Bulletin

(CAB) is to discuss the details of this new law and to make recommendations on implementation of the law.

Background

Counties are authorized to adopt subdivision regulations pursuant to Chapter 711 of the Ohio Revised Code (ORC). State law also defines what is considered to be a subdivision of land subject to county subdivision regulations. Generally speaking, any time a new parcel of land is created that is five acres or less in area, it is subject to review under county subdivision regulations. Likewise, any new parcel of land over five acres in area is generally exempt from county subdivision regulations.

However, some parcels over five acres in area may be subject to county review. For example, a multifamily residential, commercial, and industrial development that involves streets, easements or common open space is a subdivision even if the parcel exceeds five acres. See Exhibit #1 on page 16 for the definition of subdivision prior to the enactment of S.B. 115. Exhibit #2 on page 17 is a copy of the definition of subdivision with the enactment of S.B. 115.

Under this statutory definition, lots can be created that cause various planning and development problems. The definition allows for the establishment of so-called “bowling alley lots” and “flag lots” with acreages just slightly over five acres in area and exempt from review by the planning commission or its administrative officer.

Bowling alley lots are lots that have minimal frontage on a public road and have excessive lot depth. For example, a lot just over 5 acres in area with 217,801 square feet and with 100 feet of frontage would be 2,178 feet deep; the same lot with 90 feet of frontage would be 2,420 feet deep; and, if the same lot had 80 feet of frontage, the lot depth would be 2,723 feet deep - more than one-half of a mile deep. In each case, these lots are 5.01 acres in area and are exempt from any subdivision review because any parcel over five acres is not, by the statutory definition, a subdivision.

As a result of the statutory exemption, the parcel is not subject to review for compliance with existing local regulations (zoning or subdivision regulations) that may set standards for maximum width-to-depth ratios or minimum frontage requirements. It is not unusual for these existing local regulations to establish a maximum width-to-depth ratio of, let’s say, not more than 3, 4, or 5 feet of depth for every foot of width or frontage on a public road (a 1:3, 1:4, or 1:5 width-to-depth ratio). An existing width-to-depth ratio, however, can not be enforced if the parcel is greater than 5 acres because, again, the parcel is not, by the statutory definition, a subdivision.

Likewise, most local zoning and subdivision regulations include a minimum requirement for lot width or frontage on a public road. Again, because any lot over 5 acres in area is not, by definition, a subdivision, there is no way to assure that this otherwise valid

requirement will be met. For example, let's say a township zoning resolution requires a minimum frontage of 100 feet. In this case, if the lot is over 5 acres in area, there is no way to enforce this requirement prior to transfer of the lot. Once more, the lot is not subject to review to ensure compliance with this valid zoning requirement because it is not, by definition, a subdivision.

Flag lots look like a flag on a flag pole. Picture the narrow flag pole fronting on a public road with the flag extending off the top of the flag pole and some distance from the road. Flag lots are usually characterized with the narrow flag pole, serving as a driveway, leading to the lot that is often hundreds or even thousands of feet back from the road. Flag lots may be individual flag lots or a group of flag lots clustered together.

Now, picture five flag lots with narrow flag poles adjacent to each other fronting on a public road. In this case, the width of each flag pole might be 10 to 15 feet in width. Oftentimes the owner of each lot grants to the other four owners the right to use the flag pole portion of the lot for access purposes, essentially establishing a de-facto private road. Again, these flag lots, if over five acres in size, are subject to no local review because they are not subdivisions under state law.

Some believe that bowling alley lots and flag lots are a waste of land, but on the other hand, there are situations, usually due to topography or the location of streams, where both may make sense. This, however, is the exception, not the rule. Some of the problems commonly associated with both bowling alley and flag lots include drainage, flooding and storm water issues; problems with on-lot sewage devices; homes being located a great distance from the public road, with access problems for fire and emergency medical services; and other problems.

Summary of Major Provisions of Amended Substitute Senate Bill 115

S.B. 115 makes a variety of changes to ORC Chapter 711 pertaining to platting and subdivision regulations. Following is a summary of the major provisions of the law as enacted:

1. Permits rules to be adopted to allow the planning authority to approve lots without a plat, in the size range of from 4-20 acres. This new authority and mid-level approval process exempts parcels of land if they are to be used exclusively for agricultural and personal recreational purposes. This Bulletin will refer to these new rules as "Large Lot Development Rules" in an effort to distinguish them from "Minor Subdivisions" or "Lot Splits" that are approved pursuant to ORC Section 711.131. It should be noted that these terms will not be found in the ORC, but are terms used in this Bulletin to try to distinguish the two types of approvals. See Exhibit #3 on page 18 which is a copy of new ORC Section 711.133 - the law that grants the new authority for Large Lot Development Rules.

2. Since the new Large Lot Development Rule authority is contained in Chapter 711 of the ORC, the rules should be enacted using the same procedures used to enact or amend subdivision regulations. The important point to remember is that the new parcels that become subject to review under the Large Lot Development Rules are not really "subdivisions" under ORC Chapter 711 even though the approval procedure is similar to the procedure to approve Minor Subdivisions.
3. If Large Lot Development Rules are adopted that apply to parcels between 4 and 5 acres, the rules must state that the proposed division of such parcels is not considered a subdivision and only need to be approved as required by the Large Lot Development Rules. Again, it needs to be stressed that lots between 4 and 20 acres that become subject to the Large Lot Development Rules, are not, by definition, a subdivision. They are, however, subject to a mid-level review that is nearly identical to the current "Minor Subdivision" review process. See Exhibit #2 on page 17 for the new definition of subdivision amended by S.B.115.
4. Clarifies in the definition of subdivision that the improvement of parcels for residential, commercial or industrial structures involving the opening, widening or extension of streets or easements for water, sewer, or storm drainage, are defined as subdivisions under the law irrespective of whether the streets or easements are for public or private facilities. See Exhibit # 2 on page 17.
5. In the case of Minor Subdivisions, lot splits which are approved without a plat may now be reviewed for compliance with health and sanitary regulations, including rules governing household sewage disposal systems. See Exhibits #4 on page 20 and Exhibit #5 on page 21.
6. In the case of Minor Subdivisions, current law provides that "no more than five lots after the original tract has been completely subdivided" may be approved without a plat. While this provision of current law has been interpreted differently by counties, under S. B. 115 the subdivision regulations may be amended to provide that the number of lots that may be approved is "no more than five lots without a plat from an original tract as that original tract exists on the effective date of the amendment to the rules" (county subdivision regulations). Under the new law, however, any such amendment to the subdivision regulations must become effective no later than two years after the effective date of S. B. 115; that is April 15, 2007. See Exhibit #4 on page 26 for a copy of ORC 711.131 as amended by S.B. 115.
7. Specifically allows a county or regional planning commission to require the submission of a preliminary plat.
8. Specifically allows a preliminary or final plat for a subdivision to be approved conditionally.

9. Specifically allows county and regional planning commissions to provide compensation and actual and necessary expenses for appointive members of a county or regional planning commission.
10. Establishes time frames for the approval of lots under the new Large Lot Development Rules and changes some of the time frames within which various actions must be taken in the processing of plats and Minor Subdivisions.

Attached as Exhibit #6 on pages 22-24 are all other statutory changes to ORC Chapter 711 not otherwise referred to above. Exhibit #7 on pages 25-29 includes changes to the law relating to county and regional planning commissions.

Large Lot Development Rules

Adoption of Rules

The most important new authority granted to counties under S. B. 115 is the power to adopt rules so that new parcels of up to 20 acres in size may become subject to a new mid-level review and approval process. This authority is granted under ORC Section 711.133 (Exhibit #3). Under current law, any parcel over five acres in size is not, by definition, a subdivision and thus not subject to any review under ORC Chapter 711.

The new law authorizes the Large Lot Development Rules to designate the size range of parcels that will be subject to approval. The size may be in the range of not less than 4 acres to not more than 20 acres. Thus, counties that choose to take advantage of this new authority could make the new law apply to lots between 4 and 20 acres, or they could choose to make the new law apply only to parcels greater than 5 acres and up to 20 acres. Another option would be to make the new law apply to a lesser number of acres, say parcels only up to 10 acres. These are decisions to be made locally.

If, however, Large Lot Development rules are adopted that include parcels between 4 and 5 acres, “the rules shall state that the proposed division (of parcels between 4 and 5 acres) shall not be considered a subdivision for the purposes of division (B)(1) of Section 711.001 of the Revised Code and need only be approved as specified in Division (A) of this Section (ORC 711.133) and the rules adopted under this section.”

In addition, the rules adopted under ORC Section 711.133 “shall exempt from the approval requirements of this section parcels of land to be used only for agricultural and personal recreational purposes.” This portion of the bill was one of the compromises that CCAO accepted during the process of passing the bill, and will be discussed in greater detail later.

The approval process of parcels subject to Large Lot Development Rules is similar to the process for the approval of Minor Subdivisions under ORC Section 711.131. In order for

the lot to be subject to approval under the Large Lot Development Rules, the following apply:

1. The proposed division must be along an existing public street;
2. The proposed division must not involve the opening, widening, or extension of any street or road; and
3. The proposed division must involve the establishment of a lot within the acreage range that is specified in the Large Lot Development Rules.

Once it is determined that the lot is subject to approval pursuant to the Large Lot Development Rules as specified above, the administrative official must determine that the proposed division is not contrary to applicable:

- Zoning;
- Health;
- Sanitary;
- Access management regulations;
- Building code regulations pertaining to existing surface and subsurface drainage;
- Rules governing household sewage disposal systems; and
- Rules that regulate lot frontage and width-to-depth ratios.

As is the case for Minor Subdivisions, Large Lot Developments are submitted to the administrative official designated in the Large Lot Development Rules for approval without a plat in accordance with ORC Section 711.133. No public hearings are required. As is the case for Minor Subdivisions, the statute allows for the regulations to require the submission of a sketch and other information that is pertinent for determining if the parcel should be approved. The administrative official must stamp the conveyance “approved by (planning authority) no plat required” and have it signed by the administrative official. We suggest that the stamp actually read, “approved by (planning authority); no plat required under R.C. 711.133.”

Likewise, we suggest that approvals of Minor Subdivisions be stamped “approved by (planning authority); no plat required under R.C. 711.131.” Finally, those parcels that are within the range specified in the Large Lot Development Rules which are exempt under the agricultural and personal recreational purposes exemption should be

stamped “no approval or plat required under R.C. 711.133; for agricultural or personal recreational use only.”

Regulations Pertaining to Lot Frontage and Width to Depth Ratios

As was mentioned in a previous section, one of the criteria for the approval of lots subject to Large Lot Development Rules is compliance with lot frontage requirements and width-to-depth ratios. It should be noted that Division (B) of ORC Section 711.133 specifically authorizes the Large Lot Development Rules to regulate lot frontage and width-to-depth ratios for lots approved under this new authority.

In addition, the statute provides that these lot frontage requirements or width-to-depth ratios apply to parcels approved under the Large Lot Development Rules only if “there is no applicable zoning regulation for lot frontage or width-to-depth ratios that apply to the parcel.” Thus, if county or township zoning is in effect and the zoning resolution contains lot frontage or width-to-depth ratios, these take precedence over those included in the Large Lot Development Rules.

Special Provisions for Parcels Exempt From Large Lot Development Rules Because They Are to be Used Only for Agricultural or Personal Recreational Purposes

To review previous sections, Large Lot Development Rules must “exempt from the approval requirements of this section parcels of land to be used only for agricultural and personal recreational purposes” (ORC 711.133(C)). In this case the statute provides that the administrative officer is to stamp the conveyance “no approval or plat required under R.C. 711.133; for agricultural and personal recreational use only.”

While the statute is silent on how a determination is made if a parcel qualifies for the agricultural and personal recreational use exemption, it does specify that parcels which have been exempted under this provision shall not be excluded from regulation under Chapter 711 of the ORC for any “future divisions or partitions of those parcels.” Further, for parcels of land that are exempt as a result of the agricultural and personal recreational use exemption and are “subsequently to be used for other than agricultural or personal recreational purposes, the planning authority shall first determine that such a parcel complies with the rules adopted under this section.”

This provision of the new law is one of the more difficult to understand and to apply. It is suggested that the determination of whether a parcel qualifies for the agricultural and personal recreational use exemption is one where counties will probably have to rely on signed statements from owners and buyers of the land. A form should probably be designed that requires both parties to certify that the land will only be used for agricultural or personal recreational use. It might also be wise to include some standards for the determination of the exemption of both agricultural and personal recreation exemptions.

As a result of this exemption in the statute, it might be preferable to only apply Large Lot Development Rules to lots over 5 acres, not to lots in the range of 4 to 5 acres as the statute permits. If a county adopts Large Lot Development Rules for parcels of 4 to 5 acres, the agricultural and personal recreational use exemption can be claimed. No such exemption is available under the Minor Subdivision process in ORC Section 711.131.

Time Periods for Approval of Lots Subject to Large Lot Development Rules

When approving lots subject to Large Lot Development Rules, the designated administrative official is directed to approve the parcels within certain time frames that vary with the number of lots or parcels that are submitted for approval as follows:

Number of Parcels	Up to the Number of Days
1-6	7 Calendar Days
7-14	14 Calendar Days
15 Or More	21 Calendar Days

Minor Subdivisions

Application of New Law to Lots Between 4 and 5 Acres

Currently under ORC Section 711.131, Lot Splits or Minor Subdivisions are subject to approval without a plat if the parcel being conveyed is not greater than 5 acres in area. With the enactment of S. B. 115, Large Lot Development Rules may be adopted that apply to parcels between 4 and 20 acres. Thus, if such regulations are adopted that include parcels of from 4 to 5 acres in size, the Minor Subdivision process would only apply to parcels of up to, but not including 4 acres.

As mentioned previously in this Bulletin, CCAO questions why it would be beneficial to include lots in the 4-5 acre range under Large Lot Development Rules. There are two reasons why CCAO feels it is not beneficial. First, under the Large Lot Development Rules adopted pursuant to ORC Section 711.133, parcels for agricultural and personal recreational purposes are exempt. Second, the approval of parcels under the Large Lot Development Rules may not consider “platting and subdividing rules” which may be considered under the Minor Subdivision process pursuant to ORC Section 711.131.

Regulation of Minor Subdivisions

Under the law, in order for a parcel to be subject to the Minor Subdivision process under ORC Section 711.131:

1. The proposed division must be along an existing public street;
2. The proposed division must not involve the opening, widening, or extension of any street or road; and
3. The proposed division of the parcel may involve no more than five lots after the original tract has been completely subdivided.

In this case, the parcels are subject to Minor Subdivision approval if the proposed division is not contrary to applicable:

- Platting;
- Subdividing;
- Zoning;
- Health;
- Sanitary;
- Access management regulations;
- Building code regulations pertaining to existing surface and subsurface drainage; and
- Rules governing household sewage disposal.

It should be noted that S. B. 115 amends ORC Section 711.131 to make parcels subject to review for conformance with health and sanitary rules, including rules governing household sewage disposal systems. These were not included under the former law. Thus, it is now clear that a lot may be denied if it can not comply with the county health department's household sewage disposal regulations. Under the former law this may not have been authorized.

Exhibit # 4 on page 20 is a copy of ORC Section 711.131 as enacted by S.B. 115. A careful reading of this section reveals that the language pertaining to home sewage disposal regulations is confusing in that it could be read that "rules governing household

sewage disposal systems” are a part of building code surface and subsurface drainage regulations, which, of course, is not the case.

To complicate matters further, H.B. 231, of the 125th General Assembly, which becomes effective on May 6th, 2005, also amends ORC Section 711.131 and also deals with the right to review lot splits for compliance with “household sewage treatment rules.” See Exhibit #5 on page 21. The Legislative Service Commission (LSC) is directed by statute to harmonize the two changes so that the effect of each is achieved.

It appears that LSC will be able to harmonize these two provisions. Again, the intent of both provisions is to authorize specifically the review of lots under the Minor Subdivision process for conformance with home sewage disposal rules of local boards of health.

If the designated administrative official finds that a proposed parcel meets the applicable requirements above, the official is directed to approve the proposed division within seven business days and stamp the deed or conveyance “approved by (planning authority); no plat required.” With the change in the law allowing for Large Lot Development Rules, CCAO suggests that this stamp be changed to read “approved by (planning authority), no plat required under R.C. 711.131” to ensure that this approval is clearly distinguished from approvals pursuant to ORC Section 711.133 (Large Lot Development Rules).

Authority to Establish New Definition of “Original Tract”

The major change in this section, however, is that permissive authority has been granted to amend the subdivision regulations to apply the term “original tract” differently than it has been defined by previous rulings of the Attorney General. In CCAO's experience the issue of the original tract is one of the more confusing areas of subdivision law, and many counties do this differently. Rather than trying to explain the various rulings of the Attorney General on this topic, readers are encouraged to refer to the various opinions that have been issued on this topic. Please refer to Ohio Attorney General Opinion of 1964, Number 1044 and to Opinion Number 73 from 1984. Generally, counties should continue to do what they have been doing in this regard and follow the advice of legal counsel if they do not take advantage of the new law to change how to apply the term original tract.

S. B. 115, however, authorizes an amendment to the subdivision regulations so that the planning authority would approve proposed divisions of parcels of land without a plat under a new division of ORC 711.131 - Division (B). If such an amendment is adopted, the new law provides that: “If the authority so amends its rules, it may approve no more than five lots without a plat from an original tract as that original tract exists on the effective date of the amendment to the rules.”

In addition, if a county wants to amend its regulations to change the way to count the number of splits that are allowed without a plat, this amendment to the subdivision regulations must be completed no later than two years after the effective date of the act.

Counties need to begin this process far enough in advance of the deadline so that the change in the subdivision regulations goes into effect not later than two years after the effective date of the act. In addition, it should be noted that the two-year window applies only to the original tract change, and does not apply to any other provisions of the law, including the authority to adopt Large Lot Development Rules.

Changes in the Law Relating to Preliminary and Final Plats

Another notable change in the law is that S. B. 115 grants specific authority for subdivision regulations to require the submission of a preliminary plat. While many subdivision regulations now so provide, a court of appeals has ruled that the subdivision enabling statute does not authorize this practice. The court, in the case *P.H. English, Inc. versus Cy Koster*, originating in Geauga County and determined in the Eleventh District Court of Appeals (*P.H. English, Inc. v Koster, et al., 61 Ohio St. 2d. 17, 399 N.E. 2d 72, 1980 Ohio LEXIS 602; 15 Ohio Op. 3d 9*), ruled that a requirement for a preliminary plat was in excess of the regulatory authority provided to a county under ORC Section 711.10.

The new law authorizes a preliminary plat under Division (B) of ORC Section 711.10. Final plats are now governed under Division (C) of this section. A county or regional planning commission may require the submission of a preliminary plat for each plat sought to be recorded. If a preliminary plat is required, the commission must provide for a review process. Under this process the commission must give its approval, conditional approval, or its disapproval in writing within 35 business days after the preliminary plat is submitted. Action on the preliminary plat must be under the signature of the secretary of the commission. If the plat is disapproved, the written disapproval must state the reasons it was not approved.

It should be noted that the law does not require the planning commission to give notice of the date of the meeting of the planning commission where it will consider or act on the preliminary plat as is the case for final plats. This procedure for notification of townships only applies to final plats under the revised law; however, CCAO believes this was an oversight. Therefore, CCAO recommends that voluntary notice to the township should be given to the township clerk.

The new law also makes a few changes related to final plats. The major change is to authorize final plats to be conditionally approved. If a final plat is approved conditionally, the approval must require the person submitting the plat to alter it within a specified period of time after the 30 calendar day approval period for the final plat. When all of the conditions have been met within the specified period, the commission shall cause its final approval to be endorsed on the final plat. No plat may be recorded until it is endorsed with the commission's final and unconditional approval.

Finally, a new provision of law was added that applies to both preliminary and final plats. This provision states that no planning commission shall require a person submitting a plat

to alter it or any part of it as long as the plat is in accordance with the general rules governing plats and subdivisions that are in effect at the time the plat is submitted.

Time Periods for Various Actions Under Subdivision Regulations

Virtually all time periods for most actions under subdivision regulations have been changed. All time periods are now specified in terms of either calendar days or business days. Business days is defined in ORC Sections 711.10 (D) and 711.131 (D) to mean “a day of the week excluding Saturday, Sunday, or a legal holiday as provided in section 1.14 of the Revised Code.” The table on the following page shows the changes that have taken place under the new law.

REQUIREMENT	OLD LAW	NEW LAW	ORC SECTION
ACTION ON PRELIMINARY PLAT	N.A.	Within 35 business days after submission of plat	711.10(B)
SCHEDULING OF MEETING TO CONSIDER FINAL PLAT AND SENDING NOTICE TO TOWNSHIP CLERK	Within 5 days after submission of plat	Within 5 calendar days after submission of plat	711.10(C)
NUMBER OF DAYS FOR MEETING OF COUNTY OR REGIONAL PLANNING COMMISSION TO CONSIDER OR ACT ON THE PLAT	Within 30 days after submission of plat, but no meeting can be held until at least 7 days after notice is sent	Within 30 calendar days after submission of plat, but no meeting can be held until at least 7 calendar days after notice is sent	711.10(C)
APPROVAL, CONDITIONAL APPROVAL OR REFUSAL TO APPROVE FINAL PLAT	Within 30 days after submission of plat	Within 30 calendar days after submission of plat	711.10(C)
FILING PETITION IN COURT FOR REFUSAL TO APPROVE PLAT	Within 60 days after refusal to approve plat	Within 60 calendar days after refusal to approve plat	711.10(C)

NOTICE TO TOWNSHIPS OF PUBLIC HEARING ON ADOPTION OR AMENDMENT OF SUBDIVISION REGULATIONS	At least 30 days before hearing	At least 30 business days before hearing	711.10(C)
PERIOD OF TIME TO APPROVE A MINOR SUBDIVISION	Within 7 working days after submission	Within 7 business days after submission	711.131(A)
PERIOD OF TIME TO APPROVE PARCELS UNDER LARGE LOT DEVELOPMENT RULES	N.A.	1-6 Parcels, within 7 calendar days 7-14 Parcels, within 14 calendar days 15 or more Parcels, within 21 calendar days	711.133(F)

Amendment of Subdivision Regulations

The most important provisions of S. B. 115 require the adoption of new rules or an amendment to current county subdivision regulations. In the case of Large Lot Development Rules, which can be enacted at any time, the procedure is the same as for the enactment or amendment of county subdivision regulations. An amendment to county subdivision regulations is also required to implement the new process related to the original tract, but in this case, the amendment to the subdivision regulations must become effective within two years after the effective date of S. B. 115.

Other amendments may be needed to require a preliminary plat; to allow for conditional approval of plats; or, to conform to the new time lines for approval and processing of subdivisions that were included in S. B. 115. The following sections discuss issues in the law related to the enactment of Large Lot Development Rules and the amendment of current county subdivision regulations.

General Information on the Adoption and Amendment of Subdivision Regulations

County commissioners have the authority to adopt subdivision regulations under ORC Section 711.05. In addition, a county or regional planning commission has authority to adopt subdivision regulations under the provisions of ORC Section 711.10.

Most county subdivision regulations are now adopted and administered by county or regional planning commissions; however, the commission must first adopt "a plan for the major streets or highways" (ORC 711.10). Once this plan is adopted by the commission,

all plats within the unincorporated area for which the commission has jurisdiction must then be approved by the commission before plats may be recorded. Once the commission adopts subdivision regulations, its approval is "in lieu of any approvals provided for in other sections of the Revised Code." After a planning commission has been created and adopts subdivision regulations, the authority to formulate rules and regulations governing the submission of plats and the ultimate approval of plats has been delegated to the commission.

It should also be noted that a county or regional planning commission is required to obtain approval of the county commissioners during the adoption or amendment process. ORC Section 711.10 does not allow the commission to adopt regulations requiring the actual construction of improvements or performance guarantees unless these requirements have been first adopted by the county commissioners after a public hearing. Further, ORC Section 711.132 requires that the commissioners must approve all rules and regulations of the planning commission after a public hearing, and before the regulations become effective. S. B. 115 amends this section so that Large Lot Development Rules enacted pursuant to ORC Section 711.133 must also be approved by the county commissioners after a public hearing.

Unlike other provisions of law, Ohio's subdivision enabling statute is less specific concerning the adoption and amendment of subdivision regulations. Part of the problem is that there is an apparent conflict (as previously noted) in the law. Section 711.10 of the Revised Code requires the commission to hold a hearing before adopting or amending its regulations. The commission is precluded from adopting a requirement for the construction of improvements or performance guarantees "unless such requirements have first been adopted by the county commissioners after a public hearing."

Section 711.132 of the ORC, on the other hand, specifies that no regulation will become effective until it "has been approved after a public hearing by the board of county commissioners." It thus appears that the adoption or amendment of improvement regulations must be adopted by the commissioners prior to adoption by the planning commission. All regulations, however, must be approved by the commissioners after a public hearing before they become effective. These contradictory provisions mean that the exact procedures should be approved by legal counsel prior to beginning any adoption or amendment process.

Recommended Amendment Process to Implement the Changes in S.B. 115

In order to take advantage of the new powers granted in S. B. 115, it is necessary for each county to enact Large Lot Development Rules or to amend its current subdivision regulations. CCAO believes that since none of the changes that will be made in the regulations should involve new provisions that will require the actual construction of improvements or new improvement guarantee requirements, the planning commission should first adopt the changes after a public hearing. The planning commission should then transmit the change to the county commissioners. The commissioners will then hold

a public hearing at a regular meeting of the board and adopt a resolution approving the changes made by the planning commission. Following is the procedure CCAO recommends:

1. Proposed Large Lot Development Rules or amendments to current subdivision regulations are prepared by the county or regional planning commission.
2. The planning commission holds a public hearing, giving 30 days prior notice in a newspaper (ORC 711.10, 1963 OAG 395).
3. Planning commission adopts Large Lot Development Rules or amendments to current subdivision regulations.
4. Planning commission transmits adopted regulations to county commissioners.
5. Commissioners publish 30-day notice of public hearing on the Large Lot Development Rules or amendments to current subdivision regulations and holds a hearing at a regular meeting of the board.
6. Commissioners adopt a resolution approving the Large Lot Development Rules or amendments to current subdivision regulations previously adopted by the planning commission.
7. Certify the Large Lot Development Rules or amendments to current subdivisions regulations along with the resolution of the commissioners approving the adoption of the rules or amendments by the planning commission to the county recorder.

Acknowledgements

The County Commissioners Association of Ohio appreciates the individuals that reviewed and commented on this County Advisory Bulletin. The following individuals were very helpful in the development of this CAB: Representative Diana Fessler, District 79, Ohio House of Representatives; Chris Gawronski, Senior Planner, Mid-Ohio

Regional Planning Commission, Legislative Chair, Ohio Planning Conference; Steve Stolte, Union County Engineer; Sara Nikolic, American Farmland Trust, Ohio Office; Jeff Smith, Ohio Homebuilders Association; Bob Fletcher, Ohio Association of Realtors; Heidi Fought, Ohio Township Association; Wendi Bootes, Countrytyme Realty; Ken Lengieza, Marion County Regional Planning Commission; Kris Hopkins, Cuyahoga County Regional Planning Commission; Ron Twining, Lorain County Regional Planning Commission; and, Shane Farnsworth, Clark County Regional Planning Commission. The final Bulletin, however, is the sole responsibility of the County Commissioners Association of Ohio.

EXHIBIT #1

OHIO REVISED CODE SECTION 711.001 PRIOR TO THE ENACTMENT OF S.B. 115

DEFINITION OF SUBDIVISION

As used in sections 711.001 to 711.38, inclusive, of the Revised Code:

(A) "Plat" means a map of a tract or parcel of land.

(B) "Subdivision" means:

(1) The division of any parcel of land shown as a unit or as contiguous units on the last preceding tax roll, into two or more parcels, sites, or lots, any one of which is less than five acres for the purpose, whether immediate or future, of transfer of ownership, provided, however, that the division or partition of land into parcels of more than five acres not involving any new streets or easements of access, and the sale or exchange of parcels between adjoining lot owners, where such sale or exchange does not create additional building sites, shall be exempted; or

(2) The improvement of one or more parcels of land for residential, commercial or industrial structures or groups of structures involving the division or allocation of land for the opening, widening or extension of any street or streets, except private streets serving industrial

structures; the division or allocation of land as open spaces for common use by owners, occupants or lease holders or as easements for the extension and maintenance of public sewer, water, storm drainage or other public facilities.

EXHIBIT #2

OHIO REVISED CODE SECTION 711.001 AS AMENDED BY S.B. 115

DEFINITION OF SUBDIVISION

As used in ~~sections 711.001 to 711.38, inclusive, of the Revised Code~~ this chapter:

(A) "Plat" means a map of a tract or parcel of land.

(B) "Subdivision" means either of the following:

(1) The division of any parcel of land shown as a unit or as contiguous units on the last preceding general tax roll list and duplicate of real and public utility property, into two or more parcels, sites, or lots, any one of which is less than five acres for the purpose, whether immediate or future, of transfer of ownership, provided, however, that the following are exempt:

(a) A division or partition of land into parcels of more than five acres not involving any new streets or easements of access; and the;

(b) The sale or exchange of parcels between adjoining lot owners, where ~~such that~~ sale or exchange does not create additional building sites; ~~shall be exempted; or~~

(c) If the planning authority adopts a rule in accordance with section 711.133 of the Revised Code that exempts from division (B)(1) of this section any parcel of land that is four acres or more, parcels in the size range delineated in that rule.

(2) The improvement of one or more parcels of land for residential, commercial, or industrial structures or groups of structures involving the division or allocation of land for the opening, widening, or extension of any public or private street or streets, except private streets serving industrial structures; or involving the division or allocation of land as open spaces for common use by owners, occupants, or leaseholders leaseholders or as easements for the extension and maintenance of public or private sewer, water, storm drainage, or other public similar facilities.

EXHIBIT #3

OHIO REVISED CODE SECTION 711.133 AS ENACTED BY S.B. 115

AUTHORITY TO ADOPT LARGE LOT DEVELOPMENT RULES

(A) Notwithstanding anything to the contrary in sections 711.001 to 711.13 of the Revised Code, rules may be adopted and amended that require a proposed division of a parcel of land along an existing public street, not involving the opening, widening, or extension of any street or road, and involving the establishment of any lot that meets acreage requirements under division (B) of this section, to be submitted to the planning authority having approving jurisdiction of plats under section 711.05, 711.09, or 711.10 of the Revised Code for approval without plat in accordance with this section. The rules shall provide that, if the authority acting through a properly designated representative finds that a proposed division is not contrary to any applicable zoning, health, sanitary, or access management regulations, regulations adopted under division (B)(3) of section 307.37 of the Revised Code regarding existing surface or subsurface drainage, including, but not limited to, rules governing household sewage disposal systems, or regulations adopted under division (D) of this section, it shall approve the proposed division within the applicable timeframe listed in division (F) of this section and, on presentation of a conveyance of the parcel, shall stamp the conveyance "approved by (planning authority); no plat required" and have it signed by its clerk, secretary, or other official as may be designated by it. For purposes of this division, "household sewage disposal system" has the same meaning as in section 3709.091 of the Revised Code.

(B) Rules adopted under this section shall designate the size range of parcels to be approved in compliance with this section; parcels may be in a range of not less than four acres and not more than twenty acres. If the designated size range includes any parcels of four to five acres in size, the rules shall state that the proposed division shall not be considered a subdivision for purposes of division (B)(1) of section 711.001 of the Revised Code and need only be approved as specified in division (A) of this section and the rules adopted under this section.

(C) Rules adopted under this section shall exempt from the approval requirements of this section parcels of land to be used only for agricultural or personal recreational purposes. On the presentation of a conveyance of such a parcel, the authority's designated representative shall stamp the conveyance "no approval or plat required under R.C. 711.133; for agricultural or personal recreational use only" and have it signed by its clerk, secretary, or other official as the authority may designate. Nothing in this division excludes, or shall be construed as excluding, parcels that are exempt under this division.

as being used only for agricultural or personal recreational purposes, from the provisions of this chapter for any future divisions or partitions of those parcels.

When parcels of land that are exempt under this division from the approval requirements of this section are subsequently to be used for other than agricultural or personal recreational purposes, the planning authority shall first determine that such a parcel complies with the rules adopted under this section.

(D) Rules adopted under this section may regulate lot frontage and width to depth ratios for parcels to be approved in compliance with this section, but those regulations shall apply to a parcel only if there is no applicable zoning regulation for lot frontage or width to depth ratios that apply to the parcel.

(E) Rules adopted under this section may require the submission of a sketch and other information that is pertinent to the authority's determination under this section.

(F) A proposed division subject to approval in accordance with this section shall be approved within one of the following timeframes:

(1) For proposed divisions into not more than six separate parcels, approval shall be within seven calendar days after its submission.

(2) For proposed divisions into more than six separate parcels but less than fifteen separate parcels, approval shall be within fourteen calendar days after its submission.

(3) For proposed divisions into fifteen parcels or more, approval shall be within twenty-one calendar days after its submission.

EXHIBIT #4

OHIO REVISED CODE SECTION 711.131 AS AMENDED BY S.B. 115

MINOR SUBDIVISION, ORIGINAL TRACT AND HOME SEWAGE DISPOSAL PROVISIONS

(A) Notwithstanding sections 711.001 to 711.13 of the Revised Code and except as provided in division (C) of this section, unless the rules adopted under section 711.05, 711.09, or 711.10 of the Revised Code are amended pursuant to division (B) of this section, a proposed division of a parcel of land along an existing public street, not involving the opening, widening, or extension of any street or road, and involving no more than five lots after the original tract has been completely subdivided, may be submitted to the planning authority having approving jurisdiction of plats under section 711.05, 711.09, or 711.10 of the Revised Code for approval without plat. If the authority acting through a properly designated representative ~~is satisfied~~ finds that the a proposed division is not contrary to applicable platting, subdividing, zoning, health, sanitary, or access management regulations or regulations adopted under division (B)(3) of section 307.37 of the Revised Code regarding existing surface or subsurface drainage, including, but not limited to, rules governing household sewage disposal systems, it shall ~~within seven working days after submission~~ approve the proposed division within seven business days after its submission and, on presentation of a conveyance of the parcel, shall stamp the conveyance "approved by (planning authority); no plat required" and have it signed by its clerk, secretary, or other official as may be designated by it. The planning authority may require the submission of a sketch and other information that is pertinent to its determination under this ~~section~~ division.

(B) For a period of up to two years after the effective date of this amendment, the rules adopted under section 711.05, 711.09, or 711.10 of the Revised Code may be amended within that period to authorize the planning authority involved to approve proposed divisions of parcels of land without plat under this division. If an authority so amends its rules, it may approve no more than five lots without a plat from an original tract as that original tract exists on the effective date of the amendment to the rules. The authority shall make the findings and approve a proposed division in the time and manner specified in division (A) of this section.

(C) This section does not apply to parcels subject to section 711.133 of the Revised Code.

(D) As used in this section:

(1) "Business day" means a day of the week excluding Saturday, Sunday, or a legal holiday as defined in section 1.14 of the Revised Code.

(2) "Household sewage disposal system" has the same meaning as in section 3709.091 of the Revised Code.

EXHIBIT #5

OHIO REVISED CODE SECTION 711.131 AS AMENDED BY H.B 231

HOME SEWAGE DISPOSAL PROVISIONS

Sec. 711.131. Notwithstanding sections 711.001 to 711.13 of the Revised Code, a proposed division of a parcel of land along an existing public street, not involving the opening, widening, or extension of any street or road, and involving no more than five lots after the original tract has been completely subdivided, may be submitted to the authority having approving jurisdiction of plats under section 711.05, 711.09, or 711.10 of the Revised Code for approval without plat. If the authority acting through a properly designated representative is satisfied that the proposed division is not contrary to applicable platting, subdividing, zoning, or access management regulations or regulations adopted under division (B)(3) of section 307.37 of the Revised Code regarding existing surface or subsurface drainage, or household sewage treatment rules adopted under section 3718.02 of the Revised Code, it shall within seven working days after submission approve the proposed division and, on presentation of a conveyance of the parcel, shall stamp the conveyance "approved by (planning authority); no plat required" and have it signed by its clerk, secretary, or other official as may be designated by it. The planning authority may require the submission of a sketch and other information that is pertinent to its determination under this section.

EXHIBIT #6

OTHER STATUTORY CHANGES TO OHIO REVISED CODE CHAPTER 711 AS AMENDED BY S.B. 115

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. ~~Within~~

(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 clerk of the board of township trustees of the township in which the plat is located. The notice shall inform the trustees 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 was sent by the planning commission.

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 submission of the plat for approval; under this division or within such further time as the applying party may agree to in writing; otherwise that plat is deemed approved, and the certificate of the

planning commission as to the date of the submission of the plat for approval under this division and the failure to take action on it within that time shall be sufficient in lieu of the written endorsement or evidence of approval required by this section division. ~~A~~

A county or regional planning commission shall not require ~~may grant conditional approval under this division to a plat by requiring~~ a person submitting the plat to alter the plat or any part of it, within a specified period after the end of the thirty calendar days, as a condition for final approval, as long as the plat is in accordance with the general rules governing plats and subdivisions of land, adopted by the commission as provided in this section, in effect at the time the plat is submitted. ~~The~~ under this division. Once all the conditions have been met within the specified period, the commission shall cause its final approval under this division to be

endorsed on the plat. No plat shall be recorded until it is endorsed with the commission's final or unconditional approval under this division.

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

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

Before adoption of its rules or amendment of its rules, the commission shall hold a public hearing ~~shall be held~~ on the adoption or amendment ~~by the commission~~. Notice of the public hearing shall be sent to all townships in the county or region by regular mail or electronic mail at least thirty business days before the hearing. No county or regional planning commission shall adopt any rules requiring actual construction of streets or other improvements or facilities or assurance of that construction as a condition precedent to the approval of a plat of a subdivision unless the requirements have first been adopted

by the board of county commissioners after a public hearing. A copy of the rules shall be certified by the planning commission to the county recorders of the appropriate counties.

After a county or regional street or highway plan has been adopted as provided in this section, the approval of plats and subdivisions provided for in this section shall be in lieu of any approvals provided for in other sections of the Revised Code, ~~so far insofar~~ as the territory within the approving jurisdiction of the county or regional planning commission, as provided in this section, is concerned. Approval of a plat shall not be an acceptance by the public of the dedication of any street, highway, or other way or open space shown upon the plat. ~~Any~~

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

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

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

Sec. 711.132. No rule or regulation of a planning commission adopted pursuant to ~~the provisions of this chapter, including any rule adopted under section 711.133 of the Revised Code,~~ shall become effective until ~~the same shall have~~ it has been approved, after public hearing, by the legislative authority of the municipal corporation in the case of a municipal planning commission or by the board of county commissioners in the case of a regional or county planning commission.

EXHIBIT #7

OHIO REVISED CODE SECTIONS 713.21 & 713.22 AS AMENDED BY S.B. 115 PROVISIONS RELATED TO COUNTY AND REGIONAL PLANNING COMMISSIONS

Sec. 713.21. (A) The planning commission of any municipal corporation or group of municipal corporations, any board of township trustees, and the board of county commissioners of any county in which ~~such~~ the municipal corporation or group of municipal corporations is located or of any adjoining county may ~~co-operate~~ cooperate in the creation of a regional planning commission, for any region defined as agreed upon by the planning commissions and boards, exclusive of any territory within the limits of a municipal corporation not having a planning commission. After creation of a regional planning commission, school districts, special districts, authorities, and any other units of local government may participate in the regional planning commission, upon ~~such terms as may be~~ agreed upon by the planning commissions and boards. ~~The~~

The number of members of such a regional planning commission, their method of appointment, and the proportion of the costs of such regional planning to be borne respectively by the various municipal corporations, townships, and counties in the region and by other participating units of local government shall be such as is determined by a majority of the planning commissions and boards. Costs may include, but are not limited to, compensation and actual and necessary expenses for appointive members of a regional planning commission who are not also holding another public office to which they were elected. Any member of a regional planning commission may hold any other public office and may serve as a member of a city, village, and a or county planning commission, except as otherwise provided in the charter of any city or village. Such

Boards of township trustees, boards of county commissioners, and legislative authorities of such municipal corporations, and the governing bodies of other participating units of local government, may appropriate their respective shares of such the costs of regional planning. The Those sums so appropriated shall be paid into the treasury of the county in which the greater portion of the population of the region is located, and shall be paid out on the certificate of the regional planning commission and the warrant of the county auditor of such that county for the purposes authorized by sections 713.21 to 713.27, inclusive, of the Revised Code. The

(B) The regional planning commission may accept, receive, and expend funds, grants, and services from the federal government or its agencies; from departments, agencies, and instrumentalities of this state or any adjoining state or from one or more counties of this state or any adjoining state or from any municipal corporation or political subdivision of this or any adjoining state, including county, regional, and municipal planning commission commissions of this or any adjoining state; or from civic sources; and. The regional planning commission may contract with respect thereto to those funds, grants, and services, either separately, jointly, or cooperatively, and may provide such the information and reports as may be necessary to secure such financial aid those funds, grants, and services. Within the amounts thus agreed upon and appropriated or otherwise received, the regional planning commission may employ necessary engineers, accountants, consultants, and employees as are necessary and may rent or lease such space, purchase, lease, and lease with option to purchase such equipment, and make such other purchases as it deems considers necessary to its use. The regional planning commission may purchase, lease with option to purchase, or receive as a gift property and buildings within which it is housed and carries out its responsibilities, provided that the rules of the commission provide for the disposition of the property and buildings in the event that if the commission is dissolved or otherwise terminated.

(C) The regional planning commission may establish such committees with such the powers as it finds necessary to carry on its work, including an executive committee to make such final determinations, decisions, findings, recommendations, and orders as the provided in the commission's rules of the regional planning commissions provide. All actions of such these committees shall be reported in writing to the members of the regional planning commission no later than the its next meeting of the regional planning commission or within thirty days from the date of the action, whichever is earlier. The regional planning commission may provide a procedure to ratify committee actions by a vote of the members. The

(D) The regional planning commission may make agreements with other agencies, public or private; agencies for the temporary transfer or joint use of staff employees, and may contract

for professional or consultant services for or from other governmental and private agencies and persons.

Sec. 713.22. (A) The board of county commissioners of any county may, and on petition of the planning commissions of a majority of the municipal corporations in the county having those planning commissions shall, provide for the organization and maintenance of a county planning commission. A county planning commission shall consist of the members of the board of county commissioners, or their alternates designated in accordance with this division, and eight other members appointed by the board in accordance with divisions (B)(1) to (4) of this section or their alternates designated and approved in accordance with this division. Any alternate designated under this division shall be a resident of the county.

To designate an alternate for a member of the board of county commissioners, the board member shall send a letter of appointment to the alternate and deliver a copy of that letter to the clerk of the board of county commissioners. At the next regular meeting of the board, the clerk shall inform the board of the designation of the alternate, and the board shall have the designation entered on the journal.

To designate an alternate for any other member of the planning commission, the member shall send a letter of appointment to the clerk of the board of county commissioners designating an individual to serve as that member's alternate. At the next regular meeting of the board, the clerk shall inform the board of the designation of the alternate, which designation the board may either approve or disapprove. The board shall enter its decision on the board's journal and, if the alternate is approved, designate the name of the alternate on the journal. The clerk of the board shall notify the commission member of the board's action, and the commission member shall inform the alternate.

A designated alternate shall serve at the pleasure of the member who makes the designation. Removal of an alternate shall be made by a letter of removal, delivered and journalized by the same method that the alternate was designated.

Once an alternate is designated for a member of the planning commission, if that commission member is absent from a planning commission meeting, the alternate has the right to vote and participate in all proceedings and actions of the commission at that meeting as if that alternate were the commission member.

(B)(1) Except as provided for counties with two or less townships in division (B)(4) of this section, if the population of the portion of any city located in the county exceeds fifty per cent of the total population of the county, the board of county commissioners shall select three of the appointive members from persons nominated by the planning commission of that city. The board shall appoint three members from the unincorporated territory of the county from persons recommended by the townships to the county, except that, if one or more of those townships in the county is a limited home rule government township, then the board shall appoint at least one of these three township appointees from the persons recommended by a limited home rule government township. The remaining two appointees shall be selected at the discretion of the board and shall be residents of the county, one residing in the unincorporated territory of the county and representing townships and the other residing in the incorporated territory of the county and representing municipal corporations in the county.

(2) Except as provided for counties with two or less townships in division (B)(4) of this section, if a county does not contain the portion of any city with at least fifty per cent of the total population of the county but contains one or more limited home rule government townships, one of the appointees shall be a resident of a limited home rule government township in the county, selected at the discretion of the board of county commissioners from persons recommended by a limited home rule government township in the county. One appointee shall be a resident of the municipal corporation with the largest population contained within the portion of the municipal corporation located in the county, selected at the discretion of the board of county commissioners from persons recommended by that municipal corporation. The remaining six appointees shall be residents of the county, selected at the discretion of the board of county commissioners.

(3) Except as provided for counties with two or less townships in division (B)(4) of this section, if a county does not contain the portion of any city with at least fifty per cent of the total population of the county and does not contain a limited home rule government township, the board of county commissioners shall appoint eight residents of the county selected at the discretion of the board.

(4) If a county contains two or less townships with unincorporated territory, the board of county commissioners shall appoint eight residents of the county selected at the discretion of the board, except that, if the population of the portion of any city located in the county exceeds fifty per cent of the total population of the county, then at least three of the appointive members shall be selected from persons nominated by the planning commission of that city.

(C) Subject to division (F) of this section, the appointive members of a county planning commission shall be appointed for terms of three years, except that, of the eight members first appointed, three shall be appointed for terms of two years, and two shall be appointed for a term of one year. The appointive members shall serve without pay may be allowed their actual and necessary expenses and the compensation that the board of county commissioners determines to be appropriate. Any member of a county planning commission may hold any other public office and may serve as a member of a city, village, and regional planning commission, except as otherwise provided in the charter of any city or village.

(D) The compensation and expenses of the appointive members of a county planning commission and the compensation of planning commission employees shall be paid from appropriations made by the board.

The county planning commission may employ engineers, accountants, consultants, and employees as are necessary, and make purchases as may be needed to the furtherance of its operation.

The county planning commission may accept, receive, and expend funds, grants, and services from the federal government or its agencies, from departments, agencies, and instrumentalities of this state or any adjoining state, from one or more counties of this state or any adjoining state, from any municipal corporation or political subdivision of this or any adjoining state, including a county, regional, and municipal planning commission of this or any adjoining state, or from civic sources, may contract with respect thereto, either separately, jointly, or cooperatively, and may provide information and reports as may be necessary to secure such financial aid.

(E) A county planning commission may adopt a policy under which members of the board of county commissioners, as members of that commission, or their designated alternates must abstain from participating and voting on the commission's recommendation, whenever a county planning commission is required by section 303.12 of the Revised Code to recommend the approval or denial of a proposed amendment or approval of some modification of an amendment to the county zoning resolution, or is required by section 303.07 of the Revised Code to approve or disapprove, or make suggestions about, a proposed county zoning resolution. The policy may require that a quorum of the commission under those circumstances be determined on the basis of an eight-member commission instead of an eleven-member commission.

(F) If at any time a change occurs within a county so that the population of a portion of a city within the county exceeds or no longer exceeds fifty per cent of the total population of the county or a township becomes a limited home rule government township, thus creating a situation where the membership of a county planning commission should be altered to comply with the membership requirements of division (B) of this section, within thirty days after the effective date of either of those types of change, the board of county commissioners, in the board's discretion, may make changes on the commission by resolution so that its membership representation complies with division (B) of this section. If the board does not adopt a resolution to so change the commission's membership, the board shall phase in the necessary changes in the commission's membership by waiting until a member's term of office expires and appointing new members so as to meet the representation requirements of division (B) of this section as soon as possible without interfering with any member's term of office.

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