



Ohio Revised Code

Section 504.19 Adopting general plan of water supply or sewer services.

Effective: December 20, 2005

Legislation: Senate Bill 107 - 126th General Assembly

(A) The board of township trustees may prepare and adopt a general plan of water supply or sewer services. After the general plan has been approved by the board, the board immediately shall notify the board of county commissioners if territory served by a county water supply facility or a county sewer district includes territory to be covered by the plan, the legislative authority of a municipal corporation that operates a water supply or sewer system in any of the territory to be covered by the plan, and the board of trustees of any existing regional water and sewer district that includes any territory to be covered by the plan, of the township's intention to provide water supply or sewer services and shall describe the area where the township proposes to provide water supply or sewer services. The notified board of county commissioners, legislative authority of a municipal corporation, and board of trustees of the regional water and sewer district then have thirty days from the date of notification to comment and object in writing to the township's provision of water supply or sewer services. An objection may be based on one or more of the following:

- (1) The county, municipal corporation, or special district already provides the proposed water supply or sewer services to the area to be served.
- (2) The county, municipal corporation, or special district has in its service plan provisions to provide the proposed water supply or sewer services in the future to the proposed area within a reasonable period of time.

Within fifteen days after receiving objections, the board of township trustees may request in writing submitted to the objecting party that the issue of the township's provision of the proposed water supply or sewer services be mediated. The mediation shall be performed either by the Ohio commission on dispute resolution and conflict management or by having each party select a mediator and having those two mediators select a third mediator who, together with the other two mediators, shall conduct the mediation.

Within forty-five days after the request for mediation is submitted, any mediation shall be



completed, and any agreements reached between the parties shall be filed in writing with the parties. Thereafter, the respective governing boards may adopt the agreements, making those agreements binding on the parties, or, if one or more of the agreed-upon points is rejected, that rejection shall be considered a final decision of a governing board for purposes of Chapter 2506. of the Revised Code, and the board of township trustees may file an appeal under that chapter regarding its provision of the proposed water supply or sewer services. In addition to any findings of the court provided in section 2506.04 of the Revised Code, the court may determine that the county, municipal corporation, or special district has not met the criteria specified in divisions (A)(1) and (2) of this section and, therefore, the township may provide its proposed water supply or sewer services or, in the alternative, may determine that the township could provide the proposed water supply or sewer services more expediently than the county, municipal corporation, or special district with no substantial increase in cost to the users of the water supply or sewer services and, therefore, order that the township may provide its proposed water supply or sewer services.

(B) Once the board has approved a general plan of water supply or sewer services under division (A) of this section, the board shall hire an engineer to prepare detailed plans, specifications, and estimates of the cost of the improvements, together with a tentative assessment of the cost based on the estimates. The tentative assessment shall be for the information of property owners and shall not be certified to the county auditor for collection. The detailed plans, specifications, estimates of cost, and tentative assessment, as prepared by the engineer and approved by the board, shall be preserved in the office of the board and shall be open to inspection of all persons interested in the improvements.

(C) Once it has been determined under division (A) of this section that a township may provide its proposed water supply or sewer services, the board may appropriate for the use of the township any public or private land, easement, rights, rights-of-way, franchises, or other property within or outside the township required by it for the accomplishment of its purposes. Except as provided in division (D) of this section, the appropriation shall be according to the procedure set forth in sections 163.01 to 163.22 of the Revised Code. The engineer hired by the board may enter upon any public or private property for the purpose of making surveys and examinations necessary for the design or examination of water supply or sewer facilities. No person shall forbid or interfere with the engineer or the engineer's authorized assistants entering upon property for these purposes. If actual damage is done to property by the making of a survey and examination, the board shall pay the reasonable



value of the damage to the owner of the property damaged, and the cost shall be included in the assessment upon the property benefited by the improvement.

(D)(1) For purposes of this division, either of the following constitutes a public exigency:

(a) A finding by the director of environmental protection that a public health nuisance caused by an occasion of unavoidable urgency and suddenness due to unsanitary conditions compels the immediate construction of sewers for the protection of the public health and welfare;

(b) The issuance of an order by the board of health of a health district to mitigate or abate a public health nuisance that is caused by an occasion of unavoidable urgency and suddenness due to unsanitary conditions and compels the immediate construction of sewers for the protection of the public health and welfare.

(2) If a board of township trustees of a township that has adopted a limited home rule government is unable to purchase property for the purpose of the construction of sewers to mitigate or abate the public health nuisance that is the subject of a finding of the director or an order of the board of health, the board of township trustees may adopt a resolution finding that it is necessary for the protection of the public health and welfare to appropriate property that the board considers needed for that purpose. The resolution shall contain a definite, accurate, and detailed description of the property and the name and place of residence, if known or with reasonable diligence ascertainable, of the owners of the property to be appropriated.

The board of township trustees shall fix in its resolution what it considers to be the value of the property to be appropriated, which shall be the board's determination of the compensation for the property and shall be supported by an independent appraisal, together with any damages to the residue. The board shall deposit the compensation so determined, together with an amount for the damages to the residue, with the probate court or the court of common pleas of the county in which the property, or a part of it, is situated. Except as otherwise provided in this division, the power to appropriate property for the purposes of this division shall be exercised in the manner provided in sections 163.01 and 163.22 of the Revised Code for an appropriation in time of public exigency. The board's resolution and a written copy of the independent appraisal shall accompany the petition filed under section 163.05 of the Revised Code.



(E) As soon as all questions of compensation and damages have been determined for any water supply facilities or sewer services improvement project, the board shall cause to be made an estimated assessment, upon the lots and lands to be assessed, of such part of the compensation, damages, and costs of the improvement as is to be specially assessed according to the method specified by resolution of the board. The schedule of the assessments shall be filed with the township fiscal officer for the inspection of interested persons. Before adopting the estimated assessment, the board shall cause written notice to be sent to the owners of all lots and lands to be assessed that the assessment has been made and is on file with the township fiscal officer, and the date when objections to the assessment will be heard. Objections shall be filed in writing with the board before the date of the hearing. If any objections are filed, the board shall hear them and act as an equalizing board, and may change the assessments if, in its opinion, any change is necessary to make the assessments just and equitable. The board shall adopt a resolution approving and confirming the assessments as reported to or modified by the board.

(F) The resolution levying the assessments shall apportion the cost among the benefited lots and lands in the manner provided by the board by resolution. The board shall certify the amounts to be levied upon each lot or parcel of land to the county auditor, who shall enter the amounts on the tax duplicate, to be collected as other taxes. The principal shall be payable in not more than forty semiannual installments, as determined by the board. Any assessment in the amount of twenty-five dollars or less, or of which the unpaid balance is twenty-five dollars or less, shall be paid in full and not in installments, at the time the first or next installment otherwise would become due and payable. Assessments are a lien upon the respective lots or parcels of land assessed from the date of adoption of the resolution under division (E) of this section. If bonds are issued to pay the compensation, damages, and the costs of an improvement, the principal amount of the assessment shall be payable in such number of semiannual installments and in such amounts as the board determines to be necessary to provide a fund for the payment of the principal of and interest on the bonds and shall bear interest from the date of the issuance of the bonds and at the same rate as the bonds.

(G) Any owner of property to be assessed for any water supply facilities or sewer services improvement project, or other person aggrieved by the action of the board in regard to any water supply facilities or sewer services improvement project, may appeal to the court of common pleas, in the manner prescribed by Chapter 2506. of the Revised Code.



(H) When collected, the assessments shall be paid by the county auditor by warrant of the county treasurer into a special fund in the township treasury created for the purpose of constructing, improving, maintaining, and operating water supply facilities or sewer improvements. The board may expend moneys from the fund only for the purposes for which the assessments were levied.