

1 A bill to be entitled
2 An act relating to onsite sewage treatment and
3 disposal system permits; amending s. 381.0065, F.S.;
4 prohibiting a municipality or political subdivision of
5 the state from requiring owners and builders of
6 certain residences to receive construction permits
7 from the Department of Environmental Protection as a
8 condition of issuing building or plumbing permits;
9 requiring such owners and builders to provide certain
10 proof to the municipality or political subdivision;
11 providing applicability for new rules adopted by the
12 department beginning on a specified date; amending ss.
13 380.0552 and 381.00651, F.S.; conforming cross-
14 references; providing effective dates.

15
16 Be It Enacted by the Legislature of the State of Florida:

17
18 **Section 1. Subsection (4) of section 381.0065, Florida**
19 **Statutes, is amended to read:**

20 381.0065 Onsite sewage treatment and disposal systems;
21 regulation.—

22 (4) PERMITS; INSTALLATION; CONDITIONS.—A person may not
23 construct, repair, modify, abandon, or operate an onsite sewage
24 treatment and disposal system without first obtaining a permit
25 approved by the department. The department may issue permits to

26 | carry out this section, except that the issuance of a permit for
27 | work seaward of the coastal construction control line
28 | established under s. 161.053 shall be contingent upon receipt of
29 | any required coastal construction control line permit from the
30 | department. A construction permit is valid for 18 months after
31 | the date of issuance and may be extended by the department for
32 | one 90-day period under rules adopted by the department. A
33 | repair permit is valid for 90 days after the date of issuance.
34 | An operating permit must be obtained before the use of any
35 | aerobic treatment unit or if the establishment generates
36 | commercial waste. Buildings or establishments that use an
37 | aerobic treatment unit or generate commercial waste shall be
38 | inspected by the department at least annually to assure
39 | compliance with the terms of the operating permit. The operating
40 | permit for a commercial wastewater system is valid for 1 year
41 | after the date of issuance and must be renewed annually. The
42 | operating permit for an aerobic treatment unit is valid for 2
43 | years after the date of issuance and must be renewed every 2
44 | years. If all information pertaining to the siting, location,
45 | and installation conditions or repair of an onsite sewage
46 | treatment and disposal system remains the same, a construction
47 | or repair permit for the onsite sewage treatment and disposal
48 | system may be transferred to another person, if the transferee
49 | files, within 60 days after the transfer of ownership, an
50 | amended application providing all corrected information and

51 proof of ownership of the property. A fee is not associated with
52 the processing of this supplemental information. A person may
53 not contract to construct, modify, alter, repair, service,
54 abandon, or maintain any portion of an onsite sewage treatment
55 and disposal system without being registered under part III of
56 chapter 489. A property owner who personally performs
57 construction, maintenance, or repairs to a system serving his or
58 her own owner-occupied single-family residence is exempt from
59 registration requirements for performing such construction,
60 maintenance, or repairs on that residence, but is subject to all
61 permitting requirements. Except as provided in paragraph (a), a
62 municipality or political subdivision of the state may not issue
63 a building or plumbing permit for any building that requires the
64 use of an onsite sewage treatment and disposal system unless the
65 owner or builder has received a construction permit for such
66 system from the department. A building or structure may not be
67 occupied and a municipality, political subdivision, or any state
68 or federal agency may not authorize occupancy until the
69 department approves the final installation of the onsite sewage
70 treatment and disposal system. A municipality or political
71 subdivision of the state may not approve any change in occupancy
72 or tenancy of a building that uses an onsite sewage treatment
73 and disposal system until the department has reviewed the use of
74 the system with the proposed change, approved the change, and
75 amended the operating permit.

76 (a) If the building or plumbing permit is for a single-
77 family residence that requires the use of an onsite sewage
78 treatment and disposal system, a municipality or political
79 subdivision of the state may not require the owner or builder to
80 receive a construction permit from the department for such
81 system as a condition of issuing the building or plumbing
82 permit. The owner or builder of the single-family residence must
83 provide to a municipality or political subdivision proof that
84 the owner or builder submitted an application for the onsite
85 sewage treatment and disposal system when applying for a
86 building or plumbing permit.

87 (b) ~~(a)~~ Subdivisions and lots in which each lot has a
88 minimum area of at least one-half acre and either a minimum
89 dimension of 100 feet or a mean of at least 100 feet of the side
90 bordering the street and the distance formed by a line parallel
91 to the side bordering the street drawn between the two most
92 distant points of the remainder of the lot may be developed with
93 a water system regulated under s. 381.0062 and onsite sewage
94 treatment and disposal systems, provided the projected daily
95 sewage flow does not exceed an average of 1,500 gallons per acre
96 per day, and provided satisfactory drinking water can be
97 obtained and all distance and setback, soil condition, water
98 table elevation, and other related requirements of this section
99 and rules adopted under this section can be met.

100 (c) ~~(b)~~ Subdivisions and lots using a public water system

as defined in s. 403.852 may use onsite sewage treatment and disposal systems, provided there are no more than four lots per acre, provided the projected daily sewage flow does not exceed an average of 2,500 gallons per acre per day, and provided that all distance and setback, soil condition, water table elevation, and other related requirements that are generally applicable to the use of onsite sewage treatment and disposal systems are met.

(d)~~(e)~~ Notwithstanding paragraphs ~~(a)~~ and (b) and (c), for subdivisions platted of record on or before October 1, 1991, when a developer or other appropriate entity has previously made or makes provisions, including financial assurances or other commitments, acceptable to the department, that a central water system will be installed by a regulated public utility based on a density formula, private potable wells may be used with onsite sewage treatment and disposal systems until the agreed-upon densities are reached. In a subdivision regulated by this paragraph, the average daily sewage flow may not exceed 2,500 gallons per acre per day. This section does not affect the validity of existing prior agreements. After October 1, 1991, the exception provided under this paragraph is not available to a developer or other appropriate entity.

(e)~~(d)~~ Paragraphs ~~(a)~~ and (b) and (c) do not apply to any proposed residential subdivision with more than 50 lots or to any proposed commercial subdivision with more than 5 lots where a publicly owned or investor-owned sewage treatment system is

126 available. This paragraph does not allow development of
127 additional proposed subdivisions in order to evade the
128 requirements of this paragraph.

129 (f)~~(e)~~ The department shall adopt rules relating to the
130 location of onsite sewage treatment and disposal systems,
131 including establishing setback distances, to prevent groundwater
132 contamination and surface water contamination and to preserve
133 the public health. The rules must consider conventional and
134 enhanced nutrient-reducing onsite sewage treatment and disposal
135 system designs, impaired or degraded water bodies, domestic
136 wastewater and drinking water infrastructure, potable water
137 sources, nonpotable wells, stormwater infrastructure, the onsite
138 sewage treatment and disposal system remediation plans developed
139 pursuant to s. 403.067(7)(a)9.b., nutrient pollution, and the
140 recommendations of the onsite sewage treatment and disposal
141 systems technical advisory committee established pursuant to
142 former s. 381.00652. The rules must also allow a person to apply
143 for and receive a variance from a rule requirement upon
144 demonstration that the requirement would cause an undue hardship
145 and granting the variance would not cause or contribute to the
146 exceedance of a total maximum daily load.

147 (g)~~(f)~~ Onsite sewage treatment and disposal systems that
148 are permitted before June 21, 2022, may not be placed closer
149 than:

- 150 1. Seventy-five feet from a private potable well.

151 2. Two hundred feet from a public potable well serving a
152 residential or nonresidential establishment having a total
153 sewage flow of greater than 2,000 gallons per day.

154 3. One hundred feet from a public potable well serving a
155 residential or nonresidential establishment having a total
156 sewage flow of less than or equal to 2,000 gallons per day.

157 4. Fifty feet from any nonpotable well.

158 5. Ten feet from any storm sewer pipe, to the maximum
159 extent possible, but in no instance shall the setback be less
160 than 5 feet.

161 6. Seventy-five feet from the mean high-water line of a
162 tidally influenced surface water body.

163 7. Seventy-five feet from the mean annual flood line of a
164 permanent nontidal surface water body.

165 8. Fifteen feet from the design high-water line of
166 retention areas, detention areas, or swales designed to contain
167 standing or flowing water for less than 72 hours after a
168 rainfall or the design high-water level of normally dry drainage
169 ditches or normally dry individual lot stormwater retention
170 areas.

171 (h)~~(g)~~ This section and rules adopted under this section
172 relating to soil condition, water table elevation, distance, and
173 other setback requirements must be equally applied to all lots,
174 with the following exceptions:

175 1. Any residential lot that was platted and recorded on or

176 after January 1, 1972, or that is part of a residential
177 subdivision that was approved by the appropriate permitting
178 agency on or after January 1, 1972, and that was eligible for an
179 onsite sewage treatment and disposal system construction permit
180 on the date of such platting and recording or approval shall be
181 eligible for an onsite sewage treatment and disposal system
182 construction permit, regardless of when the application for a
183 permit is made. If rules in effect at the time the permit
184 application is filed cannot be met, residential lots platted and
185 recorded or approved on or after January 1, 1972, shall, to the
186 maximum extent possible, comply with the rules in effect at the
187 time the permit application is filed. At a minimum, however,
188 those residential lots platted and recorded or approved on or
189 after January 1, 1972, but before January 1, 1983, shall comply
190 with those rules in effect on January 1, 1983, and those
191 residential lots platted and recorded or approved on or after
192 January 1, 1983, shall comply with those rules in effect at the
193 time of such platting and recording or approval. In determining
194 the maximum extent of compliance with current rules that is
195 possible, the department shall allow structures and
196 appurtenances thereto which were authorized at the time such
197 lots were platted and recorded or approved.

198 2. Lots platted before 1972 are subject to a 50-foot
199 minimum surface water setback and are not subject to lot size
200 requirements. The projected daily flow for onsite sewage

201 treatment and disposal systems for lots platted before 1972 may
202 not exceed:

203 a. Two thousand five hundred gallons per acre per day for
204 lots served by public water systems as defined in s. 403.852.

205 b. One thousand five hundred gallons per acre per day for
206 lots served by water systems regulated under s. 381.0062.

207 (i) 1. ~~(h) 1.~~ The department may grant variances in hardship
208 cases which may be less restrictive than the provisions
209 specified in this section. If a variance is granted and the
210 onsite sewage treatment and disposal system construction permit
211 has been issued, the variance may be transferred with the system
212 construction permit, if the transferee files, within 60 days
213 after the transfer of ownership, an amended construction permit
214 application providing all corrected information and proof of
215 ownership of the property and if the same variance would have
216 been required for the new owner of the property as was
217 originally granted to the original applicant for the variance. A
218 fee is not associated with the processing of this supplemental
219 information. A variance may not be granted under this section
220 until the department is satisfied that:

221 a. The hardship was not caused intentionally by the action
222 of the applicant;

223 b. A reasonable alternative, taking into consideration
224 factors such as cost, does not exist for the treatment of the
225 sewage; and

226 c. The discharge from the onsite sewage treatment and
227 disposal system will not adversely affect the health of the
228 applicant or the public or significantly degrade the groundwater
229 or surface waters.

230
231 Where soil conditions, water table elevation, and setback
232 provisions are determined by the department to be satisfactory,
233 special consideration must be given to those lots platted before
234 1972.

235 2. The department shall appoint and staff a variance
236 review and advisory committee, which shall meet monthly to
237 recommend agency action on variance requests. The committee
238 shall make its recommendations on variance requests at the
239 meeting in which the application is scheduled for consideration,
240 except for an extraordinary change in circumstances, the receipt
241 of new information that raises new issues, or when the applicant
242 requests an extension. The committee shall consider the criteria
243 in subparagraph 1. in its recommended agency action on variance
244 requests and shall also strive to allow property owners the full
245 use of their land where possible.

246 a. The committee is composed of the following:

247 (I) The Secretary of Environmental Protection or his or
248 her designee.

249 (II) A representative from the county health departments.

250 (III) A representative from the home building industry

recommended by the Florida Home Builders Association.

(IV) A representative from the septic tank industry recommended by the Florida Onsite Wastewater Association.

(V) A representative from the Department of Health.

(VI) A representative from the real estate industry who is also a developer in this state who develops lots using onsite sewage treatment and disposal systems, recommended by the Florida Association of Realtors.

(VII) A representative from the engineering profession recommended by the Florida Engineering Society.

b. Members shall be appointed for a term of 3 years, with such appointments being staggered so that the terms of no more than two members expire in any one year. Members shall serve without remuneration, but if requested, shall be reimbursed for per diem and travel expenses as provided in s. 112.061.

3. The variance review and advisory committee is not responsible for reviewing water well permitting. However, the committee shall consider all requirements of law related to onsite sewage treatment and disposal systems when making recommendations on variance requests for onsite sewage treatment and disposal system permits.

(j)~~(i)~~ A construction permit may not be issued for an onsite sewage treatment and disposal system in any area zoned or used for industrial or manufacturing purposes, or its equivalent, where a publicly owned or investor-owned sewage

276 treatment system is available, or where a likelihood exists that
277 the system will receive toxic, hazardous, or industrial waste.
278 An existing onsite sewage treatment and disposal system may be
279 repaired if a publicly owned or investor-owned sewage treatment
280 system is not available within 500 feet of the building sewer
281 stub-out and if system construction and operation standards can
282 be met. This paragraph does not require publicly owned or
283 investor-owned sewage treatment systems to accept anything other
284 than domestic wastewater.

285 1. A building located in an area zoned or used for
286 industrial or manufacturing purposes, or its equivalent, when
287 such building is served by an onsite sewage treatment and
288 disposal system, must not be occupied until the owner or tenant
289 has obtained written approval from the department. The
290 department may not grant approval when the proposed use of the
291 system is to dispose of toxic, hazardous, or industrial
292 wastewater or toxic or hazardous chemicals.

293 2. Each person who owns or operates a business or facility
294 in an area zoned or used for industrial or manufacturing
295 purposes, or its equivalent, or who owns or operates a business
296 that has the potential to generate toxic, hazardous, or
297 industrial wastewater or toxic or hazardous chemicals, and uses
298 an onsite sewage treatment and disposal system that is installed
299 on or after July 5, 1989, must obtain an annual system operating
300 permit from the department. A person who owns or operates a

business that uses an onsite sewage treatment and disposal system that was installed and approved before July 5, 1989, does not need to obtain a system operating permit. However, upon change of ownership or tenancy, the new owner or operator must notify the department of the change, and the new owner or operator must obtain an annual system operating permit, regardless of the date that the system was installed or approved.

3. The department shall periodically review and evaluate the continued use of onsite sewage treatment and disposal systems in areas zoned or used for industrial or manufacturing purposes, or its equivalent, and may require the collection and analyses of samples from within and around such systems. If the department finds that toxic or hazardous chemicals or toxic, hazardous, or industrial wastewater have been or are being disposed of through an onsite sewage treatment and disposal system, the department shall initiate enforcement actions against the owner or tenant to ensure adequate cleanup, treatment, and disposal.

(k)~~(j)~~ An onsite sewage treatment and disposal system designed by a professional engineer registered in the state and certified by such engineer as complying with performance criteria adopted by the department must be approved by the department subject to the following:

1. The performance criteria applicable to engineer-

326 designed systems must be limited to those necessary to ensure
327 that such systems do not adversely affect the public health or
328 significantly degrade the groundwater or surface water. Such
329 performance criteria shall include consideration of the quality
330 of system effluent, the proposed total sewage flow per acre,
331 wastewater treatment capabilities of the natural or replaced
332 soil, water quality classification of the potential surface-
333 water-receiving body, and the structural and maintenance
334 viability of the system for the treatment of domestic
335 wastewater. However, performance criteria shall address only the
336 performance of a system and not a system's design.

337 2. A person electing to use an engineer-designed system
338 shall, upon completion of the system design, submit such design,
339 certified by a registered professional engineer, to the county
340 health department. The county health department may use an
341 outside consultant to review the engineer-designed system, with
342 the actual cost of such review to be borne by the applicant.
343 Within 5 working days after receiving an engineer-designed
344 system permit application, the county health department shall
345 request additional information if the application is not
346 complete. Within 15 working days after receiving a complete
347 application for an engineer-designed system, the county health
348 department shall issue the permit or, if it determines that the
349 system does not comply with the performance criteria, shall
350 notify the applicant of that determination and refer the

351 application to the department for a determination as to whether
352 the system should be approved, disapproved, or approved with
353 modification. The department engineer's determination shall
354 prevail over the action of the county health department. The
355 applicant shall be notified in writing of the department's
356 determination and of the applicant's rights to pursue a variance
357 or seek review under the provisions of chapter 120.

358 3. The owner of an engineer-designed performance-based
359 system must maintain a current maintenance service agreement
360 with a maintenance entity permitted by the department. The
361 maintenance entity shall inspect each system at least twice each
362 year and shall report quarterly to the department on the number
363 of systems inspected and serviced. The reports may be submitted
364 electronically.

365 4. The property owner of an owner-occupied, single-family
366 residence may be approved and permitted by the department as a
367 maintenance entity for his or her own performance-based
368 treatment system upon written certification from the system
369 manufacturer's approved representative that the property owner
370 has received training on the proper installation and service of
371 the system. The maintenance service agreement must conspicuously
372 disclose that the property owner has the right to maintain his
373 or her own system and is exempt from contractor registration
374 requirements for performing construction, maintenance, or
375 repairs on the system but is subject to all permitting

376 requirements.

377 5. The property owner shall obtain a biennial system
378 operating permit from the department for each system. The
379 department shall inspect the system at least annually, or on
380 such periodic basis as the fee collected permits, and may
381 collect system-effluent samples if appropriate to determine
382 compliance with the performance criteria. The fee for the
383 biennial operating permit shall be collected beginning with the
384 second year of system operation.

385 6. If an engineer-designed system fails to properly
386 function or fails to meet performance standards, the system
387 shall be re-engineered, if necessary, to bring the system into
388 compliance with the provisions of this section.

389 (1)~~(*)~~ An innovative system may be approved in conjunction
390 with an engineer-designed site-specific system that is certified
391 by the engineer to meet the performance-based criteria adopted
392 by the department.

393 (m)~~(1)~~ For the Florida Keys, the department shall adopt a
394 special rule for the construction, installation, modification,
395 operation, repair, maintenance, and performance of onsite sewage
396 treatment and disposal systems which considers the unique soil
397 conditions and water table elevations, densities, and setback
398 requirements. On lots where a setback distance of 75 feet from
399 surface waters, saltmarsh, and buttonwood association habitat
400 areas cannot be met, an injection well, approved and permitted

401 by the department, may be used for disposal of effluent from
402 onsite sewage treatment and disposal systems. The following
403 additional requirements apply to onsite sewage treatment and
404 disposal systems in Monroe County:

405 1. The county, each municipality, and those special
406 districts established for the purpose of the collection,
407 transmission, treatment, or disposal of sewage shall ensure, in
408 accordance with the specific schedules adopted by the
409 Administration Commission under s. 380.0552, the completion of
410 onsite sewage treatment and disposal system upgrades to meet the
411 requirements of this paragraph.

412 2. Onsite sewage treatment and disposal systems must cease
413 discharge by December 31, 2015, or must comply with department
414 rules and provide the level of treatment which, on a permitted
415 annual average basis, produces an effluent that contains no more
416 than the following concentrations:

417 a. Biochemical Oxygen Demand (CBOD5) of 10 mg/l.
418 b. Suspended Solids of 10 mg/l.
419 c. Total Nitrogen, expressed as N, of 10 mg/l or a
420 reduction in nitrogen of at least 70 percent. A system that has
421 been tested and certified to reduce nitrogen concentrations by
422 at least 70 percent shall be deemed to be in compliance with
423 this standard.

424 d. Total Phosphorus, expressed as P, of 1 mg/l.
425

426 In addition, onsite sewage treatment and disposal systems
427 discharging to an injection well must provide basic disinfection
428 as defined by department rule.

429 3. In areas not scheduled to be served by a central
430 sewerage system, onsite sewage treatment and disposal systems
431 must, by December 31, 2015, comply with department rules and
432 provide the level of treatment described in subparagraph 2.

433 4. In areas scheduled to be served by a central sewerage
434 system by December 31, 2015, if the property owner has paid a
435 connection fee or assessment for connection to the central
436 sewerage system, the property owner may install a holding tank
437 with a high water alarm or an onsite sewage treatment and
438 disposal system that meets the following minimum standards:

439 a. The existing tanks must be pumped and inspected and
440 certified as being watertight and free of defects in accordance
441 with department rule; and

442 b. A sand-lined drainfield or injection well in accordance
443 with department rule must be installed.

444 5. Onsite sewage treatment and disposal systems must be
445 monitored for total nitrogen and total phosphorus concentrations
446 as required by department rule.

447 6. The department shall enforce proper installation,
448 operation, and maintenance of onsite sewage treatment and
449 disposal systems pursuant to this chapter, including ensuring
450 that the appropriate level of treatment described in

subparagraph 2. is met.

7. The authority of a local government, including a special district, to mandate connection of an onsite sewage treatment and disposal system is governed by s. 4, chapter 99-395, Laws of Florida.

8. Notwithstanding any other law, an onsite sewage treatment and disposal system installed after July 1, 2010, in unincorporated Monroe County, excluding special wastewater districts, that complies with the standards in subparagraph 2. is not required to connect to a central sewerage system until December 31, 2020.

(n)~~(m)~~ A product sold in the state for use in onsite sewage treatment and disposal systems may not contain any substance in concentrations or amounts that would interfere with or prevent the successful operation of such system, or that would cause discharges from such systems to violate applicable water quality standards. The department shall publish criteria for products known or expected to meet the conditions of this paragraph. If a product does not meet such criteria, such product may be sold if the manufacturer satisfactorily demonstrates to the department that the conditions of this paragraph are met.

(o)~~(n)~~ Evaluations for determining the seasonal high-water table elevations or the suitability of soils for the use of a new onsite sewage treatment and disposal system shall be

476 performed by department personnel, professional engineers
477 registered in the state, or such other persons with expertise,
478 as defined by rule, in making such evaluations. Evaluations for
479 determining mean annual flood lines shall be performed by those
480 persons identified in paragraph (2)(1). The department shall
481 accept evaluations submitted by professional engineers and such
482 other persons as meet the expertise established by this section
483 or by rule unless the department has a reasonable scientific
484 basis for questioning the accuracy or completeness of the
485 evaluation.

486 (p)~~(e)~~ An application for an onsite sewage treatment and
487 disposal system permit shall be completed in full, signed by the
488 owner or the owner's authorized representative, or by a
489 contractor licensed under chapter 489, and shall be accompanied
490 by all required exhibits and fees. Specific documentation of
491 property ownership is not required as a prerequisite to the
492 review of an application or the issuance of a permit. The
493 issuance of a permit does not constitute determination by the
494 department of property ownership.

495 (q)~~(p)~~ The department may not require any form of
496 subdivision analysis of property by an owner, developer, or
497 subdivider before submission of an application for an onsite
498 sewage treatment and disposal system.

499 (r)~~(q)~~ This section does not limit the power of a
500 municipality or county to enforce other laws for the protection

501 of the public health and safety.

502 (s)~~(r)~~ In the siting of onsite sewage treatment and
503 disposal systems, including drainfields, shoulders, and slopes,
504 guttering may not be required on single-family residential
505 dwelling units for systems located greater than 5 feet from the
506 roof drip line of the house. If guttering is used on residential
507 dwelling units, the downspouts shall be directed away from the
508 drainfield.

509 (t)~~(s)~~ Notwithstanding subparagraph (h)1. ~~(g)1.~~, onsite
510 sewage treatment and disposal systems located in floodways of
511 the Suwannee and Aucilla Rivers must adhere to the following
512 requirements:

513 1. The absorption surface of the drainfield may not be
514 subject to flooding based on 10-year flood elevations. Provided,
515 however, for lots or parcels created by the subdivision of land
516 in accordance with applicable local government regulations
517 before January 17, 1990, if an applicant cannot construct a
518 drainfield system with the absorption surface of the drainfield
519 at an elevation equal to or above 10-year flood elevation, the
520 department shall issue a permit for an onsite sewage treatment
521 and disposal system within the 10-year floodplain of rivers,
522 streams, and other bodies of flowing water if all of the
523 following criteria are met:

- 524 a. The lot is at least one-half acre in size;
525 b. The bottom of the drainfield is at least 36 inches

526 above the 2-year flood elevation; and

527 c. The applicant installs a waterless, incinerating, or
528 organic waste composting toilet and a graywater system and
529 drainfield in accordance with department rules; an aerobic
530 treatment unit and drainfield in accordance with department
531 rules; a system that is capable of reducing effluent nitrate by
532 at least 50 percent in accordance with department rules; or a
533 system other than a system using alternative drainfield
534 materials in accordance with department rules. The United States
535 Department of Agriculture Soil Conservation Service soil maps,
536 State of Florida Water Management District data, and Federal
537 Emergency Management Agency Flood Insurance maps are resources
538 that shall be used to identify flood-prone areas.

539 2. The use of fill or mounding to elevate a drainfield
540 system out of the 10-year floodplain of rivers, streams, or
541 other bodies of flowing water may not be permitted if such a
542 system lies within a regulatory floodway of the Suwannee and
543 Aucilla Rivers. In cases where the 10-year flood elevation does
544 not coincide with the boundaries of the regulatory floodway, the
545 regulatory floodway will be considered for the purposes of this
546 subsection to extend at a minimum to the 10-year flood
547 elevation.

548 (u)1.~~(t)1.~~ The owner of an aerobic treatment unit system
549 shall maintain a current maintenance service agreement with an
550 aerobic treatment unit maintenance entity permitted by the

551 department. The maintenance entity shall inspect each aerobic
552 treatment unit system at least twice each year and shall report
553 quarterly to the department on the number of aerobic treatment
554 unit systems inspected and serviced. The reports may be
555 submitted electronically.

556 2. The property owner of an owner-occupied, single-family
557 residence may be approved and permitted by the department as a
558 maintenance entity for his or her own aerobic treatment unit
559 system upon written certification from the system manufacturer's
560 approved representative that the property owner has received
561 training on the proper installation and service of the system.
562 The maintenance entity service agreement must conspicuously
563 disclose that the property owner has the right to maintain his
564 or her own system and is exempt from contractor registration
565 requirements for performing construction, maintenance, or
566 repairs on the system but is subject to all permitting
567 requirements.

568 3. A septic tank contractor licensed under part III of
569 chapter 489, if approved by the manufacturer, may not be denied
570 access by the manufacturer to aerobic treatment unit system
571 training or spare parts for maintenance entities. After the
572 original warranty period, component parts for an aerobic
573 treatment unit system may be replaced with parts that meet
574 manufacturer's specifications but are manufactured by others.
575 The maintenance entity shall maintain documentation of the

576 substitute part's equivalency for 2 years and shall provide such
577 documentation to the department upon request.

578 4. The owner of an aerobic treatment unit system shall
579 obtain a system operating permit from the department and allow
580 the department to inspect during reasonable hours each aerobic
581 treatment unit system at least annually, and such inspection may
582 include collection and analysis of system-effluent samples for
583 performance criteria established by rule of the department.

584 (v)~~(u)~~ The department may require the submission of
585 detailed system construction plans that are prepared by a
586 professional engineer registered in this state. The department
587 shall establish by rule criteria for determining when such a
588 submission is required.

589 (w)~~(v)~~ Any permit issued and approved by the department
590 for the installation, modification, or repair of an onsite
591 sewage treatment and disposal system shall transfer with the
592 title to the property in a real estate transaction. A title may
593 not be encumbered at the time of transfer by new permit
594 requirements by a governmental entity for an onsite sewage
595 treatment and disposal system which differ from the permitting
596 requirements in effect at the time the system was permitted,
597 modified, or repaired. An inspection of a system may not be
598 mandated by a governmental entity at the point of sale in a real
599 estate transaction. This paragraph does not affect a septic tank
600 phase-out deferral program implemented by a consolidated

government as defined in s. 9, Art. VIII of the State Constitution of 1885.

(x)~~(w)~~ A governmental entity, including a municipality, county, or statutorily created commission, may not require an engineer-designed performance-based treatment system, excluding a passive engineer-designed performance-based treatment system, before the completion of the Florida Onsite Sewage Nitrogen Reduction Strategies Project. This paragraph does not apply to a governmental entity, including a municipality, county, or statutorily created commission, which adopted a local law, ordinance, or regulation on or before January 31, 2012. Notwithstanding this paragraph, an engineer-designed performance-based treatment system may be used to meet the requirements of the variance review and advisory committee recommendations.

(y)1.~~(x)~~1. An onsite sewage treatment and disposal system is not considered abandoned if the system is disconnected from a structure that was made unusable or destroyed following a disaster and if the system was properly functioning at the time of disconnection and was not adversely affected by the disaster. The onsite sewage treatment and disposal system may be reconnected to a rebuilt structure if:

a. The reconnection of the system is to the same type of structure which contains the same number of bedrooms or fewer, if the square footage of the structure is less than or equal to

626 110 percent of the original square footage of the structure that
627 existed before the disaster;

628 b. The system is not a sanitary nuisance; and

629 c. The system has not been altered without prior
630 authorization.

631 2. An onsite sewage treatment and disposal system that
632 serves a property that is foreclosed upon is not considered
633 abandoned.

634 (z)~~(y)~~ If an onsite sewage treatment and disposal system
635 permittee receives, relies upon, and undertakes construction of
636 a system based upon a validly issued construction permit under
637 rules applicable at the time of construction but a change to a
638 rule occurs within 5 years after the approval of the system for
639 construction but before the final approval of the system, the
640 rules applicable and in effect at the time of construction
641 approval apply at the time of final approval if fundamental site
642 conditions have not changed between the time of construction
643 approval and final approval.

644 (aa)~~(z)~~ An existing-system inspection or evaluation and
645 assessment, or a modification, replacement, or upgrade of an
646 onsite sewage treatment and disposal system is not required for
647 a remodeling addition or modification to a single-family home if
648 a bedroom is not added. However, a remodeling addition or
649 modification to a single-family home may not cover any part of
650 the existing system or encroach upon a required setback or the

unobstructed area. To determine if a setback or the unobstructed area is impacted, the local health department shall review and verify a floor plan and site plan of the proposed remodeling addition or modification to the home submitted by a remodeler which shows the location of the system, including the distance of the remodeling addition or modification to the home from the onsite sewage treatment and disposal system. The local health department may visit the site or otherwise determine the best means of verifying the information submitted. A verification of the location of a system is not an inspection or evaluation and assessment of the system. The review and verification must be completed within 7 business days after receipt by the local health department of a floor plan and site plan. If the review and verification is not completed within such time, the remodeling addition or modification to the single-family home, for the purposes of this paragraph, is approved.

Section 2. Effective July 1, 2026, subsection (10) is added to section 381.0065, Florida Statutes, to read:

381.0065 Onsite sewage treatment and disposal systems; regulation.—

(10) ADOPTION OF NEW RULES.—Any new rules for the use and installation of onsite sewage treatment and disposal systems adopted by the department under this section do not apply to permit applications submitted within 90 days after the date such rules are adopted.

676 **Section 3. Paragraph (i) of subsection (2), paragraph (b)**
677 **of subsection (4), paragraph (j) of subsection (7), and**
678 **paragraph (a) of subsection (9) of section 380.0552, Florida**
679 **Statutes, are amended to read:**

680 380.0552 Florida Keys Area; protection and designation as
681 area of critical state concern.—

682 (2) LEGISLATIVE INTENT.—It is the intent of the
683 Legislature to:

684 (i) Protect and improve the nearshore water quality of the
685 Florida Keys through federal, state, and local funding of water
686 quality improvement projects, including the construction and
687 operation of wastewater management facilities that meet the
688 requirements of ss. 381.0065(4) (m) and 403.086(11) ~~ss.~~
689 ~~381.0065(4) (l) and 403.086(11)~~, as applicable.

690 (4) REMOVAL OF DESIGNATION.—

691 (b) Beginning November 30, 2010, the state land planning
692 agency shall annually submit a written report to the
693 Administration Commission describing the progress of the Florida
694 Keys Area toward completing the work program tasks specified in
695 commission rules. The land planning agency shall recommend
696 removing the Florida Keys Area from being designated as an area
697 of critical state concern to the commission if it determines
698 that:

699 1. All of the work program tasks have been completed,
700 including construction of, operation of, and connection to

701 central wastewater management facilities pursuant to s.
702 403.086(11) and upgrade of onsite sewage treatment and disposal
703 systems pursuant to s. 381.0065(4)(m) ~~s. 381.0065(4)(1)~~;

704 2. All local comprehensive plans and land development
705 regulations and the administration of such plans and regulations
706 are adequate to protect the Florida Keys Area, fulfill the
707 legislative intent specified in subsection (2), and are
708 consistent with and further the principles guiding development;
709 and

710 3. A local government has adopted a resolution at a public
711 hearing recommending the removal of the designation.

712 (7) PRINCIPLES FOR GUIDING DEVELOPMENT.—State, regional,
713 and local agencies and units of government in the Florida Keys
714 Area shall coordinate their plans and conduct their programs and
715 regulatory activities consistent with the principles for guiding
716 development as specified in chapter 27F-8, Florida
717 Administrative Code, as amended effective August 23, 1984, which
718 is adopted and incorporated herein by reference. For the
719 purposes of reviewing the consistency of the adopted plan, or
720 any amendments to that plan, with the principles for guiding
721 development, and any amendments to the principles, the
722 principles shall be construed as a whole and specific provisions
723 may not be construed or applied in isolation from the other
724 provisions. However, the principles for guiding development are
725 repealed 18 months from July 1, 1986. After repeal, any plan

amendments must be consistent with the following principles:

(j) Ensuring the improvement of nearshore water quality by requiring the construction and operation of wastewater management facilities that meet the requirements of ss. 381.0065(4)(m) and 403.086(11) ~~ss. 381.0065(4)(l) and 403.086(11)~~, as applicable, and by directing growth to areas served by central wastewater treatment facilities through permit allocation systems.

(9) MODIFICATION TO PLANS AND REGULATIONS.—

(a) Any land development regulation or element of a local comprehensive plan in the Florida Keys Area may be enacted, amended, or rescinded by a local government, but the enactment, amendment, or rescission becomes effective only upon approval by the state land planning agency. The state land planning agency shall review the proposed change to determine if it is in compliance with the principles for guiding development specified in chapter 27F-8, Florida Administrative Code, as amended effective August 23, 1984, and must approve or reject the requested changes within 60 days after receipt. Amendments to local comprehensive plans in the Florida Keys Area must also be reviewed for compliance with the following:

1. Construction schedules and detailed capital financing plans for wastewater management improvements in the annually adopted capital improvements element, and standards for the construction of wastewater treatment and disposal facilities or

collection systems that meet or exceed the criteria in s.
403.086(11) for wastewater treatment and disposal facilities or
s. 381.0065(4)(m) ~~s. 381.0065(4)(1)~~ for onsite sewage treatment
and disposal systems.

2. Goals, objectives, and policies to protect public
safety and welfare in the event of a natural disaster by
maintaining a hurricane evacuation clearance time for permanent
residents of no more than 24.5 hours. The hurricane evacuation
clearance time shall be determined by a hurricane evacuation
study conducted in accordance with a professionally accepted
methodology and approved by the state land planning agency. For
purposes of hurricane evacuation clearance time:

a. Mobile home residents are not considered permanent
residents.

b. The City of Key West Area of Critical State Concern
established by chapter 28-36, Florida Administrative Code, shall
be included in the hurricane evacuation study and is subject to
the evacuation requirements of this subsection.

**Section 4. Paragraph (c) of subsection (6) of section
381.00651, Florida Statutes, is amended to read:**

381.00651 Periodic evaluation and assessment of onsite
sewage treatment and disposal systems.—

(6) The requirements for an onsite sewage treatment and
disposal system evaluation and assessment program are as
follows:

776 (c) Repair of systems.—The local ordinance may not require
777 a repair, modification, or replacement of a system as a result
778 of an evaluation unless the evaluation identifies a system
779 failure. For purposes of this subsection, the term "system
780 failure" means a condition existing within an onsite sewage
781 treatment and disposal system which results in the discharge of
782 untreated or partially treated wastewater onto the ground
783 surface or into surface water or that results in the failure of
784 building plumbing to discharge properly and presents a sanitary
785 nuisance. A system is not in failure if the system does not have
786 a minimum separation distance between the drainfield and the
787 wettest season water table or if an obstruction in a sanitary
788 line or an effluent screen or filter prevents effluent from
789 flowing into a drainfield. If a system failure is identified and
790 several allowable remedial measures are available to resolve the
791 failure, the system owner may choose the least costly allowable
792 remedial measure to fix the system. There may be instances in
793 which a pump-out is sufficient to resolve a system failure.
794 Allowable remedial measures to resolve a system failure are
795 limited to what is necessary to resolve the failure and must
796 meet, to the maximum extent practicable, the requirements of the
797 repair code in effect when the repair is made, subject to the
798 exceptions specified in s. 381.0065(4)(h) ~~s. 381.0065(4)(g)~~. An
799 engineer-designed performance-based treatment system to reduce
800 nutrients may not be required as an alternative remediation

801 | measure to resolve the failure of a conventional system.

802 | **Section 5.** Except as otherwise expressly provided in this
803 | act, this act shall take effect upon becoming a law.