

By the Committee on Environment and Natural Resources; and Senator Martin

592-02038-26

2026698c1

A bill to be entitled

An act relating to onsite sewage treatment and disposal system permits; amending s. 381.0065, F.S.; prohibiting a municipality or political subdivision of the state from requiring owners and builders of certain residences to receive construction permits from the Department of Environmental Protection as a condition of issuing building or plumbing permits; requiring such owners and builders to provide certain proof to the municipality or political subdivision; providing applicability for new rules adopted by the department beginning on a specified date; amending ss. 380.0552 and 381.00651, F.S.; conforming cross-references; providing effective dates.

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

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

381.0065 Onsite sewage treatment and disposal systems; regulation.—

(4) PERMITS; INSTALLATION; CONDITIONS.—A person may not construct, repair, modify, abandon, or operate an onsite sewage treatment and disposal system without first obtaining a permit approved by the department. The department may issue permits to carry out this section, except that the issuance of a permit for work seaward of the coastal construction control line established under s. 161.053 shall be contingent upon receipt of any required coastal construction control line permit from the

592-02038-26

2026698c1

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

592-02038-26

2026698c1

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 and plumbing permit.

87 (b) ~~(a)~~ Subdivisions and lots in which each lot has a

592-02038-26

2026698c1

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

108 (d) ~~(e)~~ Notwithstanding paragraphs ~~(a)~~ and (b) and (c), for
109 subdivisions platted of record on or before October 1, 1991,
110 when a developer or other appropriate entity has previously made
111 or makes provisions, including financial assurances or other
112 commitments, acceptable to the department, that a central water
113 system will be installed by a regulated public utility based on
114 a density formula, private potable wells may be used with onsite
115 sewage treatment and disposal systems until the agreed-upon
116 densities are reached. In a subdivision regulated by this

592-02038-26

2026698c1

117 paragraph, the average daily sewage flow may not exceed 2,500
118 gallons per acre per day. This section does not affect the
119 validity of existing prior agreements. After October 1, 1991,
120 the exception provided under this paragraph is not available to
121 a developer or other appropriate entity.

122 (e) (d) Paragraphs (a) and (b) and (c) do not apply to any
123 proposed residential subdivision with more than 50 lots or to
124 any proposed commercial subdivision with more than 5 lots where
125 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

592-02038-26

2026698c1

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:

592-02038-26

2026698c1

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

592-02038-26

2026698c1

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,

592-02038-26

2026698c1

233 special consideration must be given to those lots platted before
234 1972.

235 2. The department shall appoint and staff a variance review
236 and advisory committee, which shall meet monthly to recommend
237 agency action on variance requests. The committee shall make its
238 recommendations on variance requests at the meeting in which the
239 application is scheduled for consideration, except for an
240 extraordinary change in circumstances, the receipt of new
241 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 her
248 designee.

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

250 (III) A representative from the home building industry
251 recommended by the Florida Home Builders Association.

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

254 (V) A representative from the Department of Health.

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

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

261 b. Members shall be appointed for a term of 3 years, with

592-02038-26

2026698c1

262 such appointments being staggered so that the terms of no more
263 than two members expire in any one year. Members shall serve
264 without remuneration, but if requested, shall be reimbursed for
265 per diem and travel expenses as provided in s. 112.061.

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

272 (j)(i) A construction permit may not be issued for an
273 onsite sewage treatment and disposal system in any area zoned or
274 used for industrial or manufacturing purposes, or its
275 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

592-02038-26

2026698c1

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

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

592-02038-26

2026698c1

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

325 1. The performance criteria applicable to engineer-designed
326 systems must be limited to those necessary to ensure that such
327 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

592-02038-26

2026698c1

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

592-02038-26

2026698c1

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 (l)-(k) 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)-(l) 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,

592-02038-26

2026698c1

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

592-02038-26

2026698c1

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
451 subparagraph 2. is met.

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

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

462 (n) (m) A product sold in the state for use in onsite sewage
463 treatment and disposal systems may not contain any substance in
464 concentrations or amounts that would interfere with or prevent

592-02038-26

2026698c1

465 the successful operation of such system, or that would cause
466 discharges from such systems to violate applicable water quality
467 standards. The department shall publish criteria for products
468 known or expected to meet the conditions of this paragraph. If a
469 product does not meet such criteria, such product may be sold if
470 the manufacturer satisfactorily demonstrates to the department
471 that the conditions of this paragraph are met.

472 (o) Evaluations for determining the seasonal high-water
473 table elevations or the suitability of soils for the use of a
474 new onsite sewage treatment and disposal system shall be
475 performed by department personnel, professional engineers
476 registered in the state, or such other persons with expertise,
477 as defined by rule, in making such evaluations. Evaluations for
478 determining mean annual flood lines shall be performed by those
479 persons identified in paragraph (2)(1). The department shall
480 accept evaluations submitted by professional engineers and such
481 other persons as meet the expertise established by this section
482 or by rule unless the department has a reasonable scientific
483 basis for questioning the accuracy or completeness of the
484 evaluation.

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

592-02038-26

2026698c1

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

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

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

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

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

592-02038-26

2026698c1

523 a. The lot is at least one-half acre in size;
524 b. The bottom of the drainfield is at least 36 inches above
525 the 2-year flood elevation; and
526 c. The applicant installs a waterless, incinerating, or
527 organic waste composting toilet and a graywater system and
528 drainfield in accordance with department rules; an aerobic
529 treatment unit and drainfield in accordance with department
530 rules; a system that is capable of reducing effluent nitrate by
531 at least 50 percent in accordance with department rules; or a
532 system other than a system using alternative drainfield
533 materials in accordance with department rules. The United States
534 Department of Agriculture Soil Conservation Service soil maps,
535 State of Florida Water Management District data, and Federal
536 Emergency Management Agency Flood Insurance maps are resources
537 that shall be used to identify flood-prone areas.

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

547 (u)1.(t)1. The owner of an aerobic treatment unit system
548 shall maintain a current maintenance service agreement with an
549 aerobic treatment unit maintenance entity permitted by the
550 department. The maintenance entity shall inspect each aerobic
551 treatment unit system at least twice each year and shall report

592-02038-26

2026698c1

552 quarterly to the department on the number of aerobic treatment
553 unit systems inspected and serviced. The reports may be
554 submitted electronically.

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

567 3. A septic tank contractor licensed under part III of
568 chapter 489, if approved by the manufacturer, may not be denied
569 access by the manufacturer to aerobic treatment unit system
570 training or spare parts for maintenance entities. After the
571 original warranty period, component parts for an aerobic
572 treatment unit system may be replaced with parts that meet
573 manufacturer's specifications but are manufactured by others.
574 The maintenance entity shall maintain documentation of the
575 substitute part's equivalency for 2 years and shall provide such
576 documentation to the department upon request.

577 4. The owner of an aerobic treatment unit system shall
578 obtain a system operating permit from the department and allow
579 the department to inspect during reasonable hours each aerobic
580 treatment unit system at least annually, and such inspection may

592-02038-26

2026698c1

581 include collection and analysis of system-effluent samples for
582 performance criteria established by rule of the department.

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

588 (w)-(v) Any permit issued and approved by the department for
589 the installation, modification, or repair of an onsite sewage
590 treatment and disposal system shall transfer with the title to
591 the property in a real estate transaction. A title may not be
592 encumbered at the time of transfer by new permit requirements by
593 a governmental entity for an onsite sewage treatment and
594 disposal system which differ from the permitting requirements in
595 effect at the time the system was permitted, modified, or
596 repaired. An inspection of a system may not be mandated by a
597 governmental entity at the point of sale in a real estate
598 transaction. This paragraph does not affect a septic tank phase-
599 out deferral program implemented by a consolidated government as
600 defined in s. 9, Art. VIII of the State Constitution of 1885.

601 (x)-(w) A governmental entity, including a municipality,
602 county, or statutorily created commission, may not require an
603 engineer-designed performance-based treatment system, excluding
604 a passive engineer-designed performance-based treatment system,
605 before the completion of the Florida Onsite Sewage Nitrogen
606 Reduction Strategies Project. This paragraph does not apply to a
607 governmental entity, including a municipality, county, or
608 statutorily created commission, which adopted a local law,
609 ordinance, or regulation on or before January 31, 2012.

592-02038-26

2026698c1

610 Notwithstanding this paragraph, an engineer-designed
611 performance-based treatment system may be used to meet the
612 requirements of the variance review and advisory committee
613 recommendations.

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

621 a. The reconnection of the system is to the same type of
622 structure which contains the same number of bedrooms or fewer,
623 if the square footage of the structure is less than or equal to
624 110 percent of the original square footage of the structure that
625 existed before the disaster;

626 b. The system is not a sanitary nuisance; and
627 c. The system has not been altered without prior
628 authorization.

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

632 (z)-(y) If an onsite sewage treatment and disposal system
633 permittee receives, relies upon, and undertakes construction of
634 a system based upon a validly issued construction permit under
635 rules applicable at the time of construction but a change to a
636 rule occurs within 5 years after the approval of the system for
637 construction but before the final approval of the system, the
638 rules applicable and in effect at the time of construction

592-02038-26

2026698c1

639 approval apply at the time of final approval if fundamental site
640 conditions have not changed between the time of construction
641 approval and final approval.

642 (aa) ~~(z)~~ An existing-system inspection or evaluation and
643 assessment, or a modification, replacement, or upgrade of an
644 onsite sewage treatment and disposal system is not required for
645 a remodeling addition or modification to a single-family home if
646 a bedroom is not added. However, a remodeling addition or
647 modification to a single-family home may not cover any part of
648 the existing system or encroach upon a required setback or the
649 unobstructed area. To determine if a setback or the unobstructed
650 area is impacted, the local health department shall review and
651 verify a floor plan and site plan of the proposed remodeling
652 addition or modification to the home submitted by a remodeler
653 which shows the location of the system, including the distance
654 of the remodeling addition or modification to the home from the
655 onsite sewage treatment and disposal system. The local health
656 department may visit the site or otherwise determine the best
657 means of verifying the information submitted. A verification of
658 the location of a system is not an inspection or evaluation and
659 assessment of the system. The review and verification must be
660 completed within 7 business days after receipt by the local
661 health department of a floor plan and site plan. If the review
662 and verification is not completed within such time, the
663 remodeling addition or modification to the single-family home,
664 for the purposes of this paragraph, is approved.

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

667 381.0065 Onsite sewage treatment and disposal systems;

592-02038-26

2026698c1

668 regulation.—

669 (10) ADOPTION OF NEW RULES.—Any new rule for the use and
670 installation of onsite sewage treatment and disposal systems
671 adopted by the department under this section does not apply to
672 permit applications submitted within 120 days after the date
673 such rule is adopted.

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

678 380.0552 Florida Keys Area; protection and designation as
679 area of critical state concern.—

680 (2) LEGISLATIVE INTENT.—It is the intent of the Legislature
681 to:

682 (i) Protect and improve the nearshore water quality of the
683 Florida Keys through federal, state, and local funding of water
684 quality improvement projects, including the construction and
685 operation of wastewater management facilities that meet the
686 requirements of ss. 381.0065(4)(m) and 403.086(11) ss.
687 ~~381.0065(4)(1) and 403.086(11)~~, as applicable.

688 (4) REMOVAL OF DESIGNATION.—

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

592-02038-26

2026698c1

697 1. All of the work program tasks have been completed,
698 including construction of, operation of, and connection to
699 central wastewater management facilities pursuant to s.
700 403.086(11) and upgrade of onsite sewage treatment and disposal
701 systems pursuant to s. 381.0065(4)(m) ~~s. 381.0065(4)(l)~~;

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

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

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

725 (j) Ensuring the improvement of nearshore water quality by

592-02038-26

2026698c1

726 requiring the construction and operation of wastewater
727 management facilities that meet the requirements of ss.
728 381.0065(4)(m) and 403.086(11) ~~ss. 381.0065(4)(1)~~ and
729 ~~403.086(11)~~, as applicable, and by directing growth to areas
730 served by central wastewater treatment facilities through permit
731 allocation systems.

732 (9) MODIFICATION TO PLANS AND REGULATIONS.—

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

745 1. Construction schedules and detailed capital financing
746 plans for wastewater management improvements in the annually
747 adopted capital improvements element, and standards for the
748 construction of wastewater treatment and disposal facilities or
749 collection systems that meet or exceed the criteria in s.
750 403.086(11) for wastewater treatment and disposal facilities or
751 s. 381.0065(4)(m) ~~s. 381.0065(4)(1)~~ for onsite sewage treatment
752 and disposal systems.

753 2. Goals, objectives, and policies to protect public safety
754 and welfare in the event of a natural disaster by maintaining a

592-02038-26

2026698c1

755 hurricane evacuation clearance time for permanent residents of
756 no more than 24.5 hours. The hurricane evacuation clearance time
757 shall be determined by a hurricane evacuation study conducted in
758 accordance with a professionally accepted methodology and
759 approved by the state land planning agency. For purposes of
760 hurricane evacuation clearance time:

761 a. Mobile home residents are not considered permanent
762 residents.

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

767 Section 4. Paragraph (c) of subsection (6) of section
768 381.00651, Florida Statutes, is amended to read:

769 381.00651 Periodic evaluation and assessment of onsite
770 sewage treatment and disposal systems.—

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

774 (c) *Repair of systems.*—The local ordinance may not require
775 a repair, modification, or replacement of a system as a result
776 of an evaluation unless the evaluation identifies a system
777 failure. For purposes of this subsection, the term “system
778 failure” means a condition existing within an onsite sewage
779 treatment and disposal system which results in the discharge of
780 untreated or partially treated wastewater onto the ground
781 surface or into surface water or that results in the failure of
782 building plumbing to discharge properly and presents a sanitary
783 nuisance. A system is not in failure if the system does not have

592-02038-26

2026698c1

784 a minimum separation distance between the drainfield and the
785 wettest season water table or if an obstruction in a sanitary
786 line or an effluent screen or filter prevents effluent from
787 flowing into a drainfield. If a system failure is identified and
788 several allowable remedial measures are available to resolve the
789 failure, the system owner may choose the least costly allowable
790 remedial measure to fix the system. There may be instances in
791 which a pump-out is sufficient to resolve a system failure.
792 Allowable remedial measures to resolve a system failure are
793 limited to what is necessary to resolve the failure and must
794 meet, to the maximum extent practicable, the requirements of the
795 repair code in effect when the repair is made, subject to the
796 exceptions specified in s. 381.0065(4)(h) ~~s. 381.0065(4)(g)~~. An
797 engineer-designed performance-based treatment system to reduce
798 nutrients may not be required as an alternative remediation
799 measure to resolve the failure of a conventional system.

800 Section 5. Except as otherwise expressly provided in this
801 act, this act shall take effect upon becoming a law.