

## Chapter 1506: COASTAL MANAGEMENT

### 1506.01 Coastal management definitions.

As used in this chapter:

(A) "Coastal area" means the waters of Lake Erie, the islands in the lake, and the lands under and adjacent to the lake, including transitional areas, wetlands, and beaches. The coastal area extends in Lake Erie to the international boundary line between the United States and Canada and landward only to the extent necessary to include shorelands, the uses of which have a direct and significant impact on coastal waters as determined by the director of natural resources.

(B) "Coastal management program" means the comprehensive action of the state and its political subdivisions cooperatively to preserve, protect, develop, restore, or enhance the resources of the coastal area and to ensure wise use of the land and water resources of the coastal area, giving attention to natural, cultural, historic, and aesthetic values; agricultural, recreational, energy, and economic needs; and the national interest. "Coastal management program" includes the establishment of objectives, policies, standards, and criteria concerning, without limitation, protection of air, water, wildlife, rare and endangered species, wetlands and natural areas, and other natural resources in the coastal area; management of coastal development and redevelopment; preservation and restoration of historic, cultural, and aesthetic coastal features; and public access to the coastal area for recreation purposes.

(C) "Coastal management program document" means a comprehensive statement consisting of, without limitation, text, maps, and illustrations that is adopted by the director in accordance with this chapter, describes the objectives, policies, standards, and criteria of the coastal management program for guiding public and private uses of lands and waters in the coastal area, lists the governmental agencies, including, without limitation, state agencies, involved in implementing the coastal management program, describes their applicable policies and programs, and cites the statutes and rules under which they may adopt and implement those policies and programs.

(D) "Person" means any agency of this state, any political subdivision of this state or of the United States, and any legal entity defined as a person under section [1.59](#) of the Revised Code.

(E) "Director" means the director of natural resources or the director's designee.

(F) "Permanent structure" means any residential, commercial, industrial, institutional, or agricultural building, any mobile home as defined in division (O) of section [4501.01](#) of the Revised Code, any manufactured home as defined in division (C)(4) of section [3781.06](#) of the Revised Code, and any septic system that receives sewage from a single-family, two-family, or three-family dwelling, but does not include any recreational vehicle as defined in section [4501.01](#) of the Revised Code.

(G) "State agency" or "agency of the state" has the same meaning as "agency" as defined in section [111.15](#) of the Revised Code.

(H) "Coastal flood hazard area" means any territory within the coastal area that has been identified as a flood hazard area under the "Flood Disaster Protection Act of 1973," 87 Stat. 975, 42 U.S.C.A. 4002, as amended.

(I) "Coastal erosion area" means any territory included in Lake Erie coastal erosion areas identified by the director under section [1506.06](#) of the Revised Code.

(J) "Conservancy district" means a conservancy district that is established under Chapter 6101. of the Revised Code.

(K) "Park board" means the board of park commissioners of a park district that is created under Chapter 1545. of the Revised Code.

(L) "Erosion control structure" means a structure that is designed solely and specifically to reduce or control erosion of the shore along or near Lake Erie, including, without limitation, revetments, seawalls, bulkheads, certain breakwaters, and similar structures.

(M) "Shore structure" includes, but is not limited to, beaches; groins; revetments; bulkheads; seawalls; breakwaters; certain dikes designated by the chief of the division of water resources; piers; docks; jetties; wharves; marinas; boat ramps; any associated fill or debris used as part of the construction of shore structures that may affect shore erosion, wave action, or inundation; and fill or debris that is placed along or near the shore, including bluffs, banks, or beach ridges, for the purpose of stabilizing slopes.

Amended by 131st General Assembly File No. TBD, HB 64, §101.01, eff. 1/1/2016.

Amended by 128th General Assembly File No.9, HB 1, §101.01, eff. 7/17/2009.

Effective Date: 03-30-1999; 2007 HB119 09-29-2007

### **1506.02 Designating department of natural resources as lead agency for development and implementation of coastal management program.**

(A) The department of natural resources is hereby designated the lead agency for the development and implementation of a coastal management program. The director of natural resources:

(1) Shall develop and adopt the coastal management program document. The director shall cooperate and coordinate with other agencies of the state and its political subdivisions in the development of the document. Before adopting the document, the director shall hold four public hearings on it in the coastal area, and may hold additional public meetings, to give the public the opportunity to make comments and recommendations concerning its terms. The director shall consider the public comments and recommendations before adopting the document. The director may amend the coastal management program document, provided that, prior to making changes in it, the director notifies by mail those persons who submitted comments and recommendations concerning the original document and appropriate agencies of the state and its political subdivisions. The director may hold at least one public hearing on the proposed changes.

(2) Shall administer the coastal management program in accordance with the coastal management program document, this chapter, and rules adopted under it;

(3) Shall adopt and may amend or rescind rules under Chapter 119. of the Revised Code for the implementation, administration, and enforcement of the coastal management program and the other provisions of this chapter. Before the adoption, amendment, or rescission of rules under division (A)(3) of this section, the director shall do all of the following:

(a) Maintain a list of interested public and private organizations and mail notice to those organizations of any proposed rule or amendment to or rescission of a rule at least thirty days before any public hearing on the proposal;

(b) Mail a copy of each proposed rule, amendment, or rescission to any person who requests a copy within five days after receipt of the request;

(c) Consult with appropriate statewide organizations and units of local government that would be affected by the proposed rule, amendment, or rescission.

Although the director is expected to discharge these duties diligently, failure to mail any notice or copy or to so consult with any person is not jurisdictional and shall not be construed to invalidate any proceeding or action of the director.

(4) Shall provide for consultation and coordination between and among state agencies, political subdivisions of the state, and interstate, regional, areawide, and federal agencies in carrying out the purposes of the coastal management program and the other provisions of this chapter;

(5) Shall, to the extent practicable and consistent with the protection of coastal area resources, coordinate the rules and policies of the department of natural resources with the rules and policies of other state and federal agencies to simplify and consolidate the regulation of activities along the Lake Erie shoreline;

(6) May, to accomplish the purposes of the coastal management program and the other provisions of this chapter, contract with any person and may accept and expend gifts, bequests, and grants of money or property from any person.

(B) Every agency of the state, upon request of the director, shall cooperate with the department of natural resources in the implementation of the coastal management program.

(C) The director shall establish a coastal management assistance grant program. Grants may be awarded from federal funds received for that purpose and from such other funds as may be provided by law to any municipal corporation, county, township, park district created under section [511.18](#) or [1545.04](#) of the Revised Code, conservancy district established under Chapter 6101. of the Revised Code, port authority, other political subdivision, state agency, educational institution, or nonprofit corporation to help implement, administer, or enforce any aspect of the coastal management program. Grants may be used for any of the following purposes:

(1) Feasibility studies and engineering reports for projects that are consistent with the policies in the coastal management program document;

(2) The protection and preservation of wetlands, beaches, fish and wildlife habitats, minerals, natural areas, prime agricultural land, endangered plant and animal species, or other significant natural coastal resources;

(3) The management of shoreline development to prevent loss of life and property in coastal flood hazard areas and coastal erosion areas, to set priorities for water-dependent energy, commercial, industrial, agricultural, and recreational uses, or to identify environmentally acceptable sites for dredge spoil disposal;

(4) Increasing public access to Lake Erie and other public places in the coastal area;

(5) The protection and preservation of historical, cultural, or aesthetic coastal resources;

(6) Improving the predictability and efficiency of governmental decision making related to coastal area management;

(7) Adopting, administering, and enforcing zoning ordinances or resolutions relating to coastal flood hazard areas or coastal erosion areas;

(8) The redevelopment of deteriorating and underutilized waterfronts and ports;

(9) Other purposes approved by the director.

Effective Date: 03-18-1999.

### **1506.021 Six year limit on administrative rules.**

Any rule adopted under division (A)(3) of section [1506.02](#) of the Revised Code shall remain in effect for not more than six years after the effective date of the rule.

Effective Date: 05-08-1996.

### **1506.03 Determining consistency of project or activity with policies in coastal management program.**

Except as otherwise provided in this section, no project or activity directly affecting the coastal area that is proposed by or subject to the approval of any agency of the state shall be implemented or approved until the director of natural resources has determined that it is consistent with the policies in the coastal management program document. Any agency of the state may develop and adopt a statement of coastal management policies, in which case a determination of consistency shall not be required under this section if the statement of coastal

management policies has been approved by the director and the project or activity is in accordance with that statement.

Effective Date: 10-20-1994.

#### **1506.04 Compliance with national flood insurance program or equivalent.**

(A) No later than September 15, 1989, each county or municipal corporation within whose jurisdiction is a coastal flood hazard area shall either participate in and remain in compliance with the national flood insurance program or shall adopt resolutions or ordinances governing the coastal flood hazard area that meet or exceed the standards required for participation in the regular phase of the national flood insurance program.

(B) If the director of natural resources determines at any time that a county or municipal corporation that is participating in the national flood insurance program or has adopted resolutions or ordinances under division (A) of this section is not in compliance with that program or those resolutions or ordinances, as applicable, the director shall so notify the legislative authority of the county or municipal corporation and shall also notify the legislative authority that it may respond to the determination in accordance with the procedure for doing so established by rules adopted under section [1506.02](#) of the Revised Code. If after considering the legislative authority's response the director determines that the county or municipal corporation is still not in compliance with the national flood insurance program or resolutions or ordinances adopted under division (A) of this section, as applicable, the director may request the attorney general in writing to, and the attorney general shall, bring an action for appropriate relief in a court of competent jurisdiction against the county or municipal corporation.

(C) The attorney general, upon the written request of the director, shall bring an action for appropriate relief in a court of competent jurisdiction against any development that meets both of the following criteria:

- (1) Is located in a county or municipal corporation that is not in compliance with division (A) of this section;
- (2) Is not in compliance with the standards of the national flood insurance program .

(D) This section does not apply to any permits or approvals issued by any state agency prior to the effective date of rules adopted under section [1506.02](#) of the Revised Code for the implementation of this section.

(E) As used in this section, "national flood insurance program" and "development" have the same meanings as in section [1521.01](#) of the Revised Code.

Effective Date: 03-15-1989; 04-06-2007.

#### **1506.05 Promoting public access to Lake Erie.**

The director of natural resources shall prepare and maintain a current inventory of public access facilities and areas for the Ohio shoreline of Lake Erie, including, without limitation, shoreline parks, cultural resources, natural areas, wildlife refuges, harbors of refuge, boat launch ramps, shoreline fishing areas, and beaches. No later than December 31, 1994, the director shall evaluate public access to Lake Erie and may prepare and publish plans and policy recommendations as necessary for enhancing public access to Lake Erie. The director shall update any plans and policy recommendations at least once every five years. Every state agency and political subdivision, upon the director's request, shall cooperate with the director and furnish information for the public access inventory and any public access plans.

Effective Date: 10-20-1994.

#### **1506.06 Preliminary and final identification of Lake Erie coastal erosion areas.**

(A) The director of natural resources, using the best available scientific records, data, and analyses of shoreline recession, shall make a preliminary identification of Lake Erie coastal erosion areas, which are the land areas anticipated to be lost by Lake Erie-related erosion within a thirty-year period if no additional approved erosion control measures are completed within that time. The preliminary identification shall state the bluff recession rates for the coastal erosion areas and shall take into account areas where substantial filling, protective

measures, or naturally stable land has significantly reduced recession. Prior to making the preliminary identification, the director shall consult with the appropriate authority of each municipal corporation, county, and township having territory within an area that the director proposes to identify as a Lake Erie coastal erosion area. Upon making the preliminary identification, the director shall notify by certified mail the appropriate authority of each municipal corporation, county, and township having territory within a Lake Erie coastal erosion area of the preliminary identification. The notice shall delineate the portion of a Lake Erie coastal erosion area within the jurisdiction of, and shall be made available for public inspection by, the municipal corporation, county, or township. The director also shall publish a notice in a newspaper of general circulation in each affected locality stating that the preliminary identification has been made and stating where information delineating the Lake Erie coastal erosion areas may be inspected by the public and shall notify each landowner of record in a coastal erosion area of the preliminary identification. The notification shall be sent by certified mail to the landowner at the address indicated in the most recent tax duplicate. Within sixty days after the notifications required by this division, the director shall hold public hearings in each of the shoreline counties on the preliminary identification of the Lake Erie coastal erosion areas. Any affected municipal corporation, county, township, or private landowner may file with the director a written objection to the preliminary identification at any of those hearings or at any other time within one hundred twenty days from the date indicated in the certified mail notice, which date shall be one week following the date of the notice. For any such objection, verifiable evidence or documentation shall be submitted indicating that some portion of a Lake Erie coastal erosion area should not have been included in the areas defined by the preliminary identification. A municipal corporation, county, or township may object only with respect to territory within its jurisdiction or other territory that it owns; a private landowner may object only with respect to the landowner's land.

(B) The director shall review all objections filed under division (A) of this section. The director may then modify the preliminary identification of Lake Erie coastal erosion areas. Within the next ninety days, the director shall notify each objecting person of the director's decision regarding the objection. The director also shall notify, within that ninety-day period, any other owner for whom the director's decision results in a modification on that other owner's property.

(C) Whenever the preliminary identification of a Lake Erie coastal erosion area is modified as a result of an objection, the director shall so notify the affected municipal corporation, county, or township and shall publish a notice of the modification in a newspaper of general circulation in the affected locality. Objections to modifications may be filed within sixty days of the newspaper notification required by this division or within sixty days of the date of the property owner's notification required by division (B) of this section, whichever is later, and shall be filed in the same manner as objections to the original preliminary identification. The director shall rule on each objection to a modification within sixty days after receiving it.

(D) After the director has ruled on each objection filed under division (B) or (C) of this section, the director shall make a final identification of the Lake Erie coastal erosion areas and shall notify by certified mail the appropriate authority of each affected municipal corporation, county, and township of the final identification. The final identification may be appealed under section [1506.08](#) of the Revised Code.

(E) At least once every ten years, the director shall review and may revise the identification of Lake Erie coastal erosion areas, taking into account any recent natural or artificially induced changes affecting anticipated recession. The review and revision shall be done in the same manner as that provided for original preliminary and final identification in this section.

(F) Any person who has received written notice under this section or section [5302.30](#) of the Revised Code that a parcel or any portion of a parcel of real property that the person owns has been included in a Lake Erie coastal erosion area identified under this section shall not sell or transfer any interest in that real property unless the person first provides written notice to the purchaser or grantee that the real property is included in a Lake Erie coastal erosion area. The written notice shall be provided in accordance with section [5302.30](#) of the Revised Code.

(G) No state agency, county, township, or municipal corporation, or any other political subdivision or special district in this state established by law shall use the fact that property has been identified as a Lake Erie coastal erosion area as a basis for any of the following:

- (1) Failing to enter into or renew a lease or to issue or renew a permit under section [1506.11](#) of the Revised Code;
- (2) Failing to issue or renew a permit required by law, other than a permit issued under section [1506.07](#) of the Revised Code;
- (3) Taking private property for public use in the exercise of the power of eminent domain;
- (4) Determining what constitutes just compensation for a taking of the property in the exercise of the power of eminent domain.

Effective Date: 05-08-1996.

### **[1506.07 Administrative rules for permanent structures in Lake Erie coastal erosion areas.](#)**

(A) No later than December 31, 1994, the director of natural resources shall adopt, and may subsequently amend or rescind, rules in accordance with Chapter 119. of the Revised Code governing the erection, construction, and redevelopment of permanent structures in Lake Erie coastal erosion areas identified under section [1506.06](#) of the Revised Code and such other rules as are necessary to implement this section. The rules shall include, without limitation, a requirement that any person who intends to erect, construct, or redevelop any permanent structure in a Lake Erie coastal erosion area obtain a permit to do so from the director and requirements and procedures for the issuance of such permits, including, without limitation, a requirement that no later than thirty days after receiving a complete permit application, the director either shall notify the applicant that the application is approved or denied and, if denied, the reason for denial or shall notify the applicant of any modification necessary to qualify the application for approval and a requirement that each permit contain a reference to the volume and page of the deed record by which the current owner of the property to be improved obtained title to it.

The rules adopted under this division do not apply to the erection, construction, or redevelopment of a permanent structure for which a permit was issued or plan was approved by any state agency, political subdivision of this state, or federal agency prior to any of the following:

- (1) The effective date of those rules;
- (2) The date the director notifies each municipal corporation, county, and township of the final identification of the coastal erosion areas pursuant to section [1506.06](#) of the Revised Code;
- (3) The date the director adopts the coastal management program document pursuant to section [1506.02](#) of the Revised Code.

(B) No person shall erect, construct, or redevelop a permanent structure on land within a Lake Erie coastal erosion area without a permit issued in accordance with rules adopted under division (A) of this section. The director shall grant a permit under those rules if the proposed site is protected by an effective erosion control measure approved by the director that will protect the permanent structure or if both of the following criteria are met:

- (1) The structure will be movable or will be situated as far landward as applicable zoning resolutions or ordinances permit;
- (2) The person seeking the authorization will suffer exceptional hardship if the authorization is not given.

The approval of an effective erosion control measure by the director for the purposes of this division does not create liability on the part of the director, the department of natural resources, or the state, municipal corporation, county, or township regarding the future protection of the site for which the measure was approved.

The director shall not require a permit for the erection, construction, or redevelopment of a permanent structure on any parcel of property within a Lake Erie coastal erosion area if that property is not adjacent to Lake Erie.

(C) The director or his authorized representative may issue a stop work order whenever the director finds, after inspection, that any erection, construction, or redevelopment is being conducted within a Lake Erie coastal



erosion area in violation of division (B) of this section.

(D) A permit granted by the director under division (B) of this section is not required within the territory of any county or municipal corporation that has adopted and is enforcing a Lake Erie coastal erosion area resolution or ordinance within its zoning or building regulations if the resolution or ordinance has been reviewed by the director under this division and meets or exceeds the standards established under division (B) of this section.

No later than thirty days after adopting, amending, or rescinding a Lake Erie coastal erosion area resolution or ordinance under this division, the legislative authority of the county or municipal corporation shall submit it to the director for review and comment. No later than thirty days after receiving the resolution or ordinance, the director shall notify the legislative authority that the resolution or ordinance does or does not meet or exceed the standards established under division (B) of this section. If it does, the director's notice also shall indicate that a permit granted by the director under division (B) of this section is not required within the territory of that county or municipal corporation. If the resolution or ordinance does not meet those standards, the legislative authority may submit a revised resolution or ordinance under this division until the director notifies the legislative authority that the resolution or ordinance meets those standards.

Beginning on the thirty-first day of January following the director's notice that the resolution or ordinance meets or exceeds the standards established under division (B) of this section, and every two years thereafter, the legislative authority shall submit to the director, on a form created by the department, a report of the county's or municipal corporation's relevant administrative and enforcement activities during the previous two calendar years.

If the director determines at any time that a Lake Erie coastal erosion area resolution or ordinance that the director has determined under this division meets or exceeds the standards established under division (B) of this section is being inadequately enforced, the director shall so notify the legislative authority that adopted it and also shall notify the legislative authority that it may respond to the director's determination in accordance with the procedure for doing so established by rules adopted under this section. If after considering the legislative authority's response the director determines that the resolution or ordinance still is being inadequately enforced, the director shall reinstate the permit requirement of division (B) of this section within the territory of the affected county or municipal corporation.

Effective Date: 05-08-1996.

### **1506.08 Appeals.**

Any person who is adversely affected by the final identification of a Lake Erie coastal erosion area under division (D) of section [1506.06](#) of the Revised Code or any other final administrative act of the director of natural resources under this chapter or who receives denial of a permit application under rules adopted under division (A) of section [1506.07](#) of the Revised Code, within thirty days after the identification, act, or denial, may appeal it in accordance with Chapter 119. of the Revised Code.

Effective Date: 05-08-1996.

### **1506.09 Violations - injunction - civil penalty.**

(A)

(1) No person shall violate or fail to comply with any provision of this chapter, any rule or order adopted or issued under it, or any condition of a permit issued in accordance with rules, resolutions, or ordinances adopted under it.

(2) The attorney general, upon written request of the director of natural resources, shall bring an action for an injunction against any person who has violated, is violating, or is threatening to violate division (A)(1) of this section.

(3) Any person who violates any provision of this chapter, any rule or order adopted or issued under it, or any condition of a permit issued in accordance with rules adopted under division (A) of section [1506.07](#) of the Revised Code shall, in addition to any fine that may be assessed under section [1506.99](#) of the Revised Code, be assessed a civil penalty of not more than five thousand dollars for each offense to be paid into the state treasury to the

credit of the general revenue fund. Upon written request of the director, the attorney general shall commence an action against any such violator. Any action under this division is a civil action, governed by the rules of civil procedure and other rules of practice and procedure applicable to civil actions.

(B) The prosecuting attorney of a county or the city director of law of a municipal corporation that has adopted a resolution or ordinance in accordance with division (D) of section [1506.07](#) of the Revised Code may, on behalf of that county or municipal corporation, respectively, bring a civil action against any person who violates that resolution or ordinance within the territory of that county or municipal corporation in the court of common pleas in the county in which the violation occurred. Any such violator may, in addition to any fine that may be assessed under section [1506.99](#) of the Revised Code, be assessed a civil penalty of not more than five thousand dollars for each offense together with court costs. Any moneys recovered under this division shall be paid into the treasury of the appropriate county or municipal corporation. Any action under this division shall be governed by the rules of civil procedure and other rules of practice and procedure applicable to civil actions.

Effective Date: 03-15-1989.

### **[1506.10 Lake Erie boundary lines.](#)**

It is hereby declared that the waters of Lake Erie consisting of the territory within the boundaries of the state, extending from the southerly shore of Lake Erie to the international boundary line between the United States and Canada, together with the soil beneath and their contents, do now belong and have always, since the organization of the state of Ohio, belonged to the state as proprietor in trust for the people of the state, for the public uses to which they may be adapted, subject to the powers of the United States government, to the public rights of navigation, water commerce, and fishery, and to the property rights of littoral owners, including the right to make reasonable use of the waters in front of or flowing past their lands. Any artificial encroachments by public or private littoral owners, which interfere with the free flow of commerce in navigable channels, whether in the form of wharves, piers, fills, or otherwise, beyond the natural shoreline of those waters, not expressly authorized by the general assembly, acting within its powers, or pursuant to section [1506.11](#) of the Revised Code, shall not be considered as having prejudiced the rights of the public in such domain. This section does not limit the right of the state to control, improve, or place aids to navigation in the other navigable waters of the state or the territory formerly covered thereby.

The department of natural resources is hereby designated as the state agency in all matters pertaining to the care, protection, and enforcement of the state's rights designated in this section.

Any order of the director of Natural Resources in any matter pertaining to the care, protection, and enforcement of the state's rights in that territory is a rule or adjudication within the meaning of sections [119.01](#) to [119.13](#) of the Revised Code.

Effective Date: 03-15-1989.

### **[1506.11 Development and improvement of lakefront land.](#)**

(A) "Territory," as used in this section, means the waters and the lands presently underlying the waters of Lake Erie and the lands formerly underlying the waters of Lake Erie and now artificially filled, between the natural shoreline and the international boundary line with Canada.

(B) Whenever the state, acting through the director of natural resources, upon application of any person who wants to develop or improve part of the territory, and after notice that the director, at the director's discretion, may give as provided in this section, determines that any part of the territory can be developed and improved or the waters thereof used as specified in the application without impairment of the public right of navigation, water commerce, and fishery, a lease of all or any part of the state's interest therein may be entered into with the applicant, or a permit may be issued for that purpose, subject to the powers of the United States government and in accordance with rules adopted by the director in accordance with Chapter 119. of the Revised Code, and without prejudice to the littoral rights of any owner of land fronting on Lake Erie, provided that the legislative authority of the municipal corporation within which any such part of the territory is located, if the municipal corporation is not within the jurisdiction of a port authority, or the county commissioners of the county within



which such part of the territory is located, excluding any territory within a municipal corporation or under the jurisdiction of a port authority, or the board of directors of a port authority with respect to such part of the territory included in the jurisdiction of the port authority, has enacted an ordinance or resolution finding and determining that such part of the territory, described by metes and bounds or by an alternate description referenced to the applicant's upland property description that is considered adequate by the director, is not necessary or required for the construction, maintenance, or operation by the municipal corporation, county, or port authority of breakwaters, piers, docks, wharves, bulkheads, connecting ways, water terminal facilities, and improvements and marginal highways in aid of navigation and water commerce and that the land uses specified in the application comply with regulation of permissible land use under a waterfront plan of the local authority.

(C) Upon the filing of the application with the director, the director may hold a public hearing thereon and may cause written notice of the filing to be given to any municipal corporation, county, or port authority, as the case may be, in which such part of the territory is located and also shall cause public notice of the filing to be given by advertisement in a newspaper of general circulation within the locality where such part of the territory is located. If a hearing is to be held, public notice of the filing may be combined with public notice of the hearing and shall be given once a week for four consecutive weeks prior to the date of the initial hearing. All hearings shall be before the director and shall be open to the public, and a record shall be made of the proceeding. Parties thereto are entitled to be heard and to be represented by counsel. The findings and order of the director shall be in writing. All costs of the hearings, including publication costs, shall be paid by the applicant. The director also may hold public meetings on the filing of an application.

If the director finds that a lease may properly be entered into with the applicant or a permit may properly be issued to the applicant, the director shall determine the consideration to be paid by the applicant, which consideration shall exclude the value of the littoral rights of the owner of land fronting on Lake Erie and improvements made or paid for by the owner of land fronting on Lake Erie or that owner's predecessors in title. The lease or permit may be for such periods of time as the director determines. The rentals received under the terms of such a lease or permit shall be paid into the state treasury to the credit of the Lake Erie submerged lands fund, which is hereby created, and shall be distributed from that fund as follows:

(1) Fifty per cent of each rental shall be paid to the department of natural resources for the administration of this section and section [1506.10](#) of the Revised Code and for the coastal management assistance grant program required to be established under division (C) of section [1506.02](#) of the Revised Code;

(2) Fifty per cent of each rental shall be paid to the municipal corporation, county, or port authority making the finding provided for in this section.

All leases and permits shall be executed in the manner provided by section [5501.01](#) of the Revised Code and shall contain, in addition to the provisions required in this section, a reservation to the state of all mineral rights and a provision that the removal of any minerals shall be conducted in such manner as not to damage any improvements placed by the littoral owner, lessee, or permit holder on the lands. No lease or permit of the lands defined in this section shall express or imply any control of fisheries or aquatic wildlife now vested in the division of wildlife of the department.

(D) Upland owners who, prior to October 13, 1955, have erected, developed, or maintained structures, facilities, buildings, or improvements or made use of waters in the part of the territory in front of those uplands shall be granted a lease or permit by the state upon the presentation of a certification by the chief executive of a municipal corporation, resolution of the board of county commissioners, or resolution of the board of directors of the port authority establishing that the structures, facilities, buildings, improvements, or uses do not constitute an unlawful encroachment on navigation and water commerce. The lease or permit shall specifically enumerate the structures, facilities, buildings, improvements, or uses so included.

(E) Persons having secured a lease or permit under this section are entitled to just compensation for the taking, whether for navigation, water commerce, or otherwise, by any governmental authority having the power of eminent domain, of structures, facilities, buildings, improvements, or uses erected or placed upon the territory pursuant to the lease or permit or the littoral rights of the person and for the taking of the leasehold and the littoral rights of the person pursuant to the procedure provided in Chapter 163. of the Revised Code. The

compensation shall not include any compensation for the site in the territory except to the extent of any interest in the site theretofore acquired by the person under this section or by prior acts of the general assembly or grants from the United States government. The failure of any person to apply for or obtain a lease or permit under this section does not prejudice any right the person may have to compensation for a taking of littoral rights or of improvements made in accordance with a lease, a permit, or littoral rights.

(F) If any taxes or assessments are levied or assessed upon property that is the subject of a lease or permit under this section, the taxes or assessments are the obligation of the lessee or permit holder.

(G) If a lease or permit secured under this section requires the lessee or permit holder to obtain the approval of the department or any of its divisions for any changes in structures, facilities, or buildings, for any improvements, or for any changes or expansion in uses, no lessee or permit holder shall change any structures, facilities, or buildings, make any improvements, or expand or change any uses unless the director first determines that the proposed action will not adversely affect any current or prospective exercise of the public right of recreation in the territory and in the state's reversionary interest in any territory leased or permitted under this section.

Proposed changes or improvements shall be deemed to "adversely affect" the public right of recreation if the changes or improvements cause or will cause any significant demonstrable negative impact upon any present or prospective recreational use of the territory by the public during the term of the lease or permit or any renewals and of any public recreational use of the leased or permitted premises in which the state has a reversionary interest.

Effective Date: 03-18-1999.

#### **1506.12 [Repealed].**

Repealed by 131st General Assembly File No. TBD, HB 471, §2, eff. 12/19/2016.

#### **1506.20 [Repealed].**

Effective Date: 07-26-1991.

#### **1506.21 Ohio Lake Erie commission.**

(A)

(1) There is hereby created the Ohio Lake Erie commission, consisting of the directors of environmental protection, natural resources, health, agriculture, transportation, and development services, or their designees, the two board members of the great lakes protection fund board appointed by the governor under section [1506.22](#) of the Revised Code who shall serve as ex officio nonvoting members, and five additional members appointed by the governor with the advice and consent of the senate. The governor shall appoint the five additional members not later than forty-five days after the effective date of this amendment. Of the initial five additional members appointed by the governor after the effective date of this amendment, two shall serve for a term ending on September 1, 2017, two shall serve for a term ending on September 1, 2018, and one shall serve for a term ending on September 1, 2019. Thereafter, all five additional members appointed by the governor shall serve three-year terms.

(2) All of the following apply to the five additional members appointed by the governor:

(a) Each member shall hold office from the date of the member's appointment until the end of the term for which the member was appointed.

(b) In the event of the death, removal, resignation, or incapacity of a member, the governor, with the advice and consent of the senate, shall appoint a successor who shall hold office for the remainder of the term for which the successor's predecessor was appointed.

(c) A member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office or until a period of sixty days has elapsed, whichever occurs first.

(d) Members may be reappointed for not more than two total terms.

(e) The governor at any time may remove a member for misfeasance, nonfeasance, or malfeasance in office.

(3) Membership on the commission does not constitute holding a public office or position of employment under the laws of this state and is not grounds for removal of public officers or employees from their offices or positions of employment. Members may be reimbursed for their actual and necessary expenses incurred in the performance of their official duties. The members of the commission annually shall designate a director or director's designee as chairperson, who shall preside at the meetings of the commission, and a secretary.

(4) The commission shall hold at least one meeting every three months. The secretary of the commission shall keep a record of its proceedings. Special meetings shall be held at the call of the chairperson or upon the request of four members of the commission. All meetings and records of the commission shall be open to the public. Six members of the commission constitute a quorum. The agencies represented on the commission shall furnish administrative, clerical, technical, and other services required by the commission in the performance of its duties.

(B) The commission shall do all of the following:

(1) Ensure the coordination of funding and monitoring federal, state, and local policies, programs, and priorities pertaining to Lake Erie, including issues related to nutrient-related water quality and the beneficial use of dredged material. The commission shall prioritize policies, programs, and priorities identified in the Lake Erie protection and restoration strategy;

(2) Review, and make recommendations concerning, the development and implementation of policies, programs, and issues that are consistent with the great lakes water quality agreement and other international, federal, and state compacts and agreements;

(3)

Serve as a repository and clearinghouse for public information and data related to Lake Erie and the Lake Erie basin and collect and distribute such information and data at the commission's discretion;

(4) Publish and submit the Lake Erie protection and restoration strategy in accordance with division (C) of section [1506.23](#) of the Revised Code;

(5) Provide representation regarding the interests of this state in state, regional, national, and international forums pertaining to Lake Erie and the Lake Erie basin;

(6) Develop, implement, and coordinate an education, public information, and community relations program concerning the commission's policies, programs, issues, and the resources of Lake Erie;

(7) Develop and implement a marketing program promoting the sale of the Lake Erie license plate created under section [4503.52](#) of the Revised Code and other public and private fundraising initiatives to support the commission's programs;

(8) Establish and dissolve public advisory councils as considered necessary to assist in programs established under this section and sections [1506.22](#) and [1506.23](#) of the Revised Code. Members of the public advisory councils shall represent a broad cross section of interests, shall have experience or expertise in the subject for which the advisory council was established, and shall serve without compensation. Membership on a public advisory council does not constitute holding a public office or position of employment under the laws of this state and is not grounds for removal of public officers or employees from their offices or positions of employment. Members of a public advisory council may be reimbursed for their actual and necessary expenses incurred in the performance of their official duties.

(C) Each state agency, upon the request of the commission, shall cooperate in the implementation of this section and sections [1506.22](#) and [1506.23](#) of the Revised Code.

Amended by 132nd General Assembly File No. TBD, SB 2, §1, eff. 10/6/2017.

Amended by 130th General Assembly File No. 25, HB 59, §101.01, eff. 9/29/2013.

Amended by 129th General Assembly File No. 28, HB 153, §101.01, eff. 9/29/2011.

Effective Date: 06-30-1997 .

### **1506.22 Great Lakes protection fund.**

(A) Except as provided in division (B) of this section, the state agency whose director has been designated to administer the Lake Erie protection fund under section [1506.23](#) of the Revised Code is hereby designated the lead agency for the implementation in this state of the purposes of the great lakes protection fund, a regional trust fund established by the great lakes states to advance the principles, goals, and objectives of the great lakes toxic substances control agreement and the great lakes water quality agreement, as they may be revised and amended.

(B) The governor shall appoint two members from this state to the board of directors of the great lakes protection fund as provided in the bylaws and articles of incorporation of the fund. Of the initial appointments made to the board, one shall serve for a term of one year and one shall serve for a term of two years; thereafter, the members of the board of directors from this state shall serve for terms of two years. The governor may remove any member at any time as provided in the bylaws and articles of incorporation of the fund. In the event of a vacancy, the governor shall appoint a successor to hold office for the remainder of the term for which the member's predecessor was appointed. Any member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office or until a period of sixty days has elapsed, whichever occurs first.

Membership on the board does not constitute holding a public office or position of employment under the laws of this state and is not grounds for removal of public officers or employees from their offices or positions of employment.

Members of the board from this state shall receive no compensation, but shall be reimbursed for their actual and necessary expenses incurred in the performance of their official duties.

Effective Date: 06-30-1997.

### **1506.23 Lake Erie protection fund; purposes.**

(A) There is hereby created in the state treasury the Lake Erie protection fund, which shall consist of money deposited into the fund from the issuance of Lake Erie license plates under section [4503.52](#) of the Revised Code, money awarded to the state from the great lakes protection fund, and donations, gifts, bequests, and other moneys received for the purposes of this section. Not later than the first day of June each year, the Ohio Lake Erie commission created in section [1506.21](#) of the Revised Code shall designate one of its members who represents a state agency to administer the fund and, with the approval of the commission, to expend moneys from the fund for any of the following purposes:

(1) Funding cooperative research , data gathering, or demonstration projects related to the priorities outlined in the Lake Erie protection and restoration strategy published under this section;

(2) Encouraging cooperation with and among leaders from state legislatures, state agencies, political subdivisions, business and industry, labor, institutions of higher education, agriculture, environmental organizations, and conservation groups within the Lake Erie basin;

(3) Awarding of grants to any agency of the United States, any state agency, as "agency" is defined in division (A) (2) of section [111.15](#) of the Revised Code, any political subdivision, any educational institution, or any nonprofit organization for the development and implementation of projects and programs that are designed to address priorities outlined in the Lake Erie protection and restoration strategy;

(4) Expenses authorized by the Ohio Lake Erie commission necessary to implement this chapter.

(B) Moneys in the Lake Erie protection fund are not intended to replace other moneys expended by any agency of the United States, any state agency, as "agency" is so defined, any political subdivision, any educational institution, or any nonprofit organization for projects and programs that are designed to protect Lake Erie .

(C) Not later than the last day of July of each odd-numbered year, the commission shall publish a Lake Erie protection and restoration strategy that describes the goals of the commission and prioritizes the uses of the Lake Erie protection fund and other funds for the following state fiscal year. The commission shall hold at least one public meeting in the Lake Erie basin regarding the strategy. The commission shall submit the strategy to the governor, the president of the senate, and the speaker of the house of representatives.

(D) Not later than September 1, 1991, and annually thereafter, the Lake Erie commission shall prepare a report of the activities that were undertaken by the commission under this section during the immediately preceding fiscal year, including, without limitation, revenues and expenses for the preceding fiscal year. The commission shall submit the report to the governor, the president of the senate, and the speaker of the house of representatives.

Amended by 132nd General Assembly File No. TBD, SB 2, §1, eff. 10/6/2017.

Amended by 132nd General Assembly File No. TBD, HB 49, §101.01, eff. 9/29/2017.

Effective Date: 06-30-1997.

### **1506.24 [Repealed].**

Repealed by 132nd General Assembly File No. TBD, HB 49, §105.01, eff. 9/29/2017.

Effective Date: 06-30-1997.

### **1506.30 Submerged lands preserves definitions.**

As used in sections 1506.30 to 1506.36 of the Revised Code:

(A) "Abandoned property" means a submerged aircraft; a submerged watercraft, including a ship, boat, canoe, skiff, raft, or barge; the rigging, gear, fittings, trappings, and equipment of a submerged aircraft or watercraft; the personal property of the officers, crew, and passengers of a submerged aircraft or watercraft; the cargo of a submerged aircraft or watercraft that has been deserted, relinquished, cast away, or left behind and for which attempts at reclamation have been abandoned by the owners and insurers; and submerged materials resulting from activities of prehistoric and historic native Americans.

(B) "Lake Erie" means that portion of the waters and lands of Lake Erie belonging to the state as provided in section 1506.10 of the Revised Code.

(C) "Historical value" means the quality of significance exemplified by an object, structure, site, or district that is included in or eligible for inclusion in the national register of historic places.

(D) "Marine surveyor" means a person engaged in the business of mapping or surveying submerged lands and abandoned property.

(E) "Mechanical or other assistance" means all artificial devices used to raise or remove artifacts from abandoned property, including pry bars, wrenches and other hand or power tools, cutting torches, explosives, winches, flotation bags, lines to surface, extra divers buoyancy devices, and other buoyancy devices.

(F) "Recreational value" means value relating to an activity in which the public engages or may engage for recreation or sport, including scuba diving and fishing, as determined by the director of natural resources.

Amended by 130th General Assembly File No. 25, HB 59, §101.01, eff. 9/29/2013.

Effective Date: 03-02-1992; 12-30-2004; 06-27-2005

### **1506.31 Administrative rules establishing Lake Erie submerged lands preserves.**

(A) In order to provide special protection for abandoned property and features and formations in Lake Erie having historical, archaeological, recreational, ecological, geological, environmental, educational, scenic, or scientific value, the director of natural resources, with the approval of the director of the Ohio history connection, may adopt rules in accordance with Chapter 119. of the Revised Code establishing Lake Erie submerged lands preserves. A preserve may be established for any area of submerged lands that contains a single watercraft or aircraft of historical value, two or more watercraft or aircraft constituting abandoned property, or other features of archaeological, historical, recreational, ecological, environmental, educational, scenic, scientific, or geological value other than sand, gravel, stone, and other minerals and substances authorized to be taken and removed in accordance with section [1505.07](#) of the Revised Code.

Any rule adopted under this division shall describe the area included in the preserve so designated and the abandoned property or features of archaeological, historical, recreational, ecological, geological, environmental, educational, scenic, or scientific value found in the preserve. Each preserve shall encompass the designated area and within that area shall extend upward to and include the surface of the water. Any number of preserves may be designated; however, an individual preserve shall not exceed three hundred square miles in area and the total area of all submerged lands designated as preserves shall not exceed ten per cent of the total submerged lands of Lake Erie.

(B) When establishing a preserve under division (A) of this section, the directors of natural resources and the Ohio history connection shall consider all of the following factors:

(1) Whether creating the preserve is necessary to protect either abandoned property or significant underwater features possessing historical, archaeological, recreational, geological, ecological, environmental, educational, scenic, or scientific value;

(2) The extent of local public and private support for creation of the preserve;

(3) If the purpose of the preserve is to be recreational, the extent to which preserve support facilities such as roads, marinas, charter services, hotels, medical hyperbaric facilities, and rescue agencies have been developed in or are planned for the coastal area that is nearest the proposed preserve;

(4) Whether creating the preserve will conflict with existing or potential removals of sand, gravel, stone, or other minerals or substances authorized to be taken and removed in accordance with section [1505.07](#) of the Revised Code.

(C) The director of natural resources, with the approval of the director of the Ohio history connection , may establish policies and may adopt rules in accordance with Chapter 119. of the Revised Code governing access to and the use of any preserve established under division (A) of this section. The director of natural resources shall limit or prohibit access to abandoned property in a preserve only if one of the following conditions is met:

(1) The site of the abandoned property is biologically or ecologically sensitive or is hazardous to human safety.

(2) Any abandoned property of significant historical value in the preserve is extremely fragile and in danger of collapsing.

(3) Any abandoned property of historical value in the preserve is suffering extensive deterioration or attrition due to prior unregulated access.

(4) The director of natural resources has agreed to limit access during the term of a permit issued under section [1506.32](#) of the Revised Code at the request of the holder of the permit who is recovering, altering, salvaging, or destroying abandoned property in the preserve in accordance with the permit.

Amended by 131st General Assembly File No. TBD, HB 141, §1, eff. 9/29/2015.

Effective Date: 03-02-1992 .

**[1506.32 Application for salvage permit for submerged watercraft or aircraft.](#)**



(A) Except as otherwise provided in division (B) of this section, any person who wishes to recover, alter, salvage, or destroy any abandoned property that is located on, in, or in the immediate vicinity of and associated with a submerged watercraft or aircraft in Lake Erie shall obtain a permit to do so from the director of natural resources that also has been approved by the director of the Ohio history connection. A permit shall authorize the operation on, in, or in the immediate vicinity of and associated with only the submerged watercraft or aircraft named in the permit and shall expire one year after its date of issuance. To apply for a permit, a person shall file an application on a form prescribed by the director of natural resources that contains all of the following information:

- (1) The name and address of the applicant;
- (2) The name, if known, of the watercraft or aircraft on, in, or around which the operation is proposed and a current photograph or drawing of the watercraft or aircraft, if available;
- (3) The location of the abandoned property to be recovered, altered, salvaged, or destroyed and the depth of water in which it may be found;
- (4) A description of each item to be recovered, altered, salvaged, or destroyed;
- (5) The method to be used in the operation;
- (6) The proposed disposition of any abandoned property recovered, including the location at which it will be available for inspection by the director of the Ohio history connection for the purposes of division (C) of section [1506.33](#) of the Revised Code;
- (7) Any other information that the director of natural resources or the director of the Ohio history connection considers necessary.

(B) A person may recover, alter, salvage, or destroy abandoned property from Lake Erie that is located outside a Lake Erie submerged lands preserve established under rules adopted under section [1506.31](#) of the Revised Code without obtaining a permit under this section if the abandoned property is not attached to or located on, in, or in the immediate vicinity of and associated with a submerged watercraft or aircraft and if the abandoned property is recoverable by hand without mechanical or other assistance.

(C) Immediately after receiving a permit application, the director of natural resources shall send a copy of it to the director of the Ohio history connection who shall review it for approval pursuant to division (D) of this section. If the director of natural resources determines that an application submitted under division (A) of this section is incomplete, the director of natural resources shall so notify the applicant in writing and shall specify the additional information that is needed. If the director of the Ohio history connection needs further information, the director of the Ohio history connection shall notify the director of natural resources, who shall notify the applicant in accordance with this division. The applicant may resubmit the application following receipt of the notice.

(D) The director of the Ohio history connection shall approve, conditionally approve, or disapprove an application. If the director determines that the abandoned property to be recovered, altered, salvaged, or destroyed has historical value in itself or in conjunction with other abandoned property in its vicinity, the director may conditionally approve or disapprove the application. If the director conditionally approves an application, the director may impose conditions on the permit in accordance with division (E) of this section. The director of the Ohio history connection shall notify the director of natural resources of the approval, conditional approval, or disapproval within fifty days after receiving the application. If the director of the Ohio history connection does not respond within fifty days as prescribed in this division, the application is deemed approved by the director.

(E) The director of natural resources shall approve, conditionally approve, or disapprove an application. If the director determines that the abandoned property to be recovered, altered, salvaged, or destroyed has substantial recreational, ecological, environmental, educational, scenic, or scientific value in itself or in conjunction with other abandoned property or resources in its vicinity or that the operation will not comply with any policies established or rules adopted under section [1506.31](#) of the Revised Code governing access to and use of the Lake Erie submerged lands preserve, if any, in which the operation is proposed, the director may conditionally approve or disapprove the application.

(F) Not later than sixty days after a complete application is submitted under this section, the director of natural resources shall approve, conditionally approve, or disapprove the application. The director of natural resources shall not approve or conditionally approve an application until it has been approved or conditionally approved by the director of the Ohio history connection under division (D) of this section. If either director conditionally approves an application, the director of natural resources shall impose on the permit such conditions as the director considers reasonable and necessary to protect the public trust and general interests, including conditions that provide any of the following:

(1) Protection and preservation of the abandoned property to be recovered and of any recreational value of the area in which the operation is proposed;

(2) Assurance of reasonable public access to the abandoned property after recovery;

(3) Conformity with any policies established or rules adopted under section [1506.31](#) of the Revised Code governing access to and use of the Lake Erie submerged lands preserve, if any, in which the operation is proposed;

(4) Prohibition of injury, harm, or damage to the applicable submerged lands or to abandoned property not authorized for recovery, alteration, salvage, or destruction during and after the proposed operation;

(5) Prohibition against the discharge of debris from the watercraft, aircraft, or salvage equipment or limitation of the amount of debris that may be so discharged;

(6) A requirement that the permit holder submit a specific plan for recovery, alteration, salvage, or destruction to the director of natural resources prior to commencing the operation. The plan may include a discussion of measures that will be taken to ensure the safety of individuals who will recover, alter, salvage, or destroy or assist in the recovery, alteration, salvage, or destruction of the abandoned property and to prevent, minimize, or mitigate potential adverse effects on any abandoned property that is to be recovered or salvaged, any abandoned property that is not to be recovered, altered, salvaged, or destroyed, and surrounding geographic features.

(G) A permit holder may renew the permit by making application to the director of natural resources at least sixty days before the expiration date of the permit. The director of natural resources shall not issue a permit to another person to recover, alter, salvage, or destroy abandoned property that is the subject of a permit for which a renewal is sought unless the director of natural resources or the director of the Ohio history connection disapproves the permit renewal. The director of natural resources or the director of the Ohio history connection may conditionally approve or disapprove a permit renewal application in accordance with division (D), (E), or (F) of this section or if the permit holder has not made reasonable progress in undertaking the operation authorized by the original permit.

(H) Any person may appeal to the director of natural resources a decision under this section approving, disapproving, or approving conditionally a permit application or renewal application in accordance with Chapter 119. of the Revised Code.

(I) The director of natural resources shall not issue and the director of the Ohio history connection shall not approve a permit under this section to recover, alter, salvage, or destroy abandoned property from Lake Erie that is located within a Lake Erie submerged lands preserve established under any rules adopted under section [1506.31](#) of the Revised Code unless the operation is for historical or scientific purposes or will not adversely affect the historical, cultural, recreational, or ecological integrity of the preserve as a whole.

(J) The director of natural resources may adopt rules in accordance with Chapter 119. of the Revised Code and establish and observe such policies regarding the public availability and use of applications submitted and permits issued under this section as will meet the legitimate requirements of the person who submits an application or to whom a permit is issued. Unless the director of natural resources determines that revealing the location of abandoned property to which a permit or permit or renewal application applies is necessary to protect the abandoned property or the public health, safety, and welfare, the director of natural resources and the director of the Ohio history connection shall keep confidential and shall not release to any person the location of such abandoned property:

- (1) During the time the application or renewal application is being processed;
- (2) During the term of the permit or a permit renewal;
- (3) Except as provided in division (J)(4) of this section, for two years following the denial of a permit or renewal application;
- (4) During the appeal of any denial of a permit or renewal application and for two years following the entry of any final order or judgment in the most recent appeal of the denial.

At the request of a permit holder, the director of natural resources may limit access to the site of abandoned property for which the permit was issued during the term of the permit.

(K) Except as provided in division (B) of this section, no person shall recover, alter, salvage, or destroy abandoned property in Lake Erie having a fair market value of one hundred dollars or more unless the person has a permit issued for that purpose under this section.

Amended by 131st General Assembly File No. TBD, HB 141, §1, eff. 9/29/2015.

Effective Date: 03-02-1992 .

### **1506.33 Ownership of submerged abandoned property in Lake Erie.**

(A) Except as otherwise provided in divisions (B) and (D) of this section, the ownership of and title to all abandoned property that is submerged in Lake Erie are in the state, which holds title in trust for the benefit of the people of the state.

(B) Any person who recovers or salvages abandoned property from Lake Erie without a permit as provided in division (B) of section [1506.32](#) of the Revised Code shall file a written report with the director of the Ohio history connection not later than thirty days after the recovery or salvage if both of the following apply:

- (1) The property is valued at more than ten dollars;
- (2) The property has been abandoned for more than thirty years.

The report shall list all such abandoned property that was recovered or salvaged and shall describe its location at the time of recovery or salvage.

The person shall give the director or the director's authorized representative an opportunity to examine the property for ninety days after the report is filed. If the director determines that the abandoned property does not have historical value, the director shall release it to the person who recovered or salvaged it.

(C) Any person who recovers or salvages abandoned property from Lake Erie in accordance with a permit issued under section [1506.32](#) of the Revised Code shall file a written report with the director not later than ten days after the recovery or salvage. The report shall list the abandoned property that was recovered or salvaged and shall describe its location at the time of recovery or salvage.

The person shall give the director or the director's authorized representative an opportunity to examine the property for ninety days after the report is filed. The property shall not be removed from this state during that period without written approval from the director. If the property is removed from the state without the director's written approval, the attorney general, upon the request of the director, shall bring an action for its recovery.

(D)

(1) If the director determines that any abandoned property listed in a report filed under division (C) of this section has historical value, the director shall not release it to the permit holder.

(2) If the director determines that any abandoned property so listed does not have historical value and if the abandoned property does not consist of coins, currency, or both that were intended for distribution as payroll, the director shall release the abandoned property to the permit holder. The permit holder shall remit to the treasurer

of state an amount equal to ten per cent of the value of the abandoned property. The treasurer shall credit fifty per cent of the moneys so received to the fund provided for in section [149.56](#) of the Revised Code and fifty per cent to the Lake Erie submerged lands preserves fund created in section [1506.35](#) of the Revised Code.

(3) If the director determines that any abandoned property so listed does not have historical value and if the abandoned property consists of coins, currency, or both that were intended for distribution as payroll, the director shall release at least sixty per cent, but not more than eighty per cent, of the abandoned property to the permit holder. The director may sell or otherwise transfer ownership of and title to any abandoned property retained by the director under division (D)(3) of this section. Proceeds from any such sale shall be credited to the fund provided for in section [149.56](#) of the Revised Code.

Amended by 131st General Assembly File No. TBD, HB 141, §1, eff. 9/29/2015.

Effective Date: 03-02-1992 .

### **[1506.34 Administrative rules for submerged land preserves.](#)**

(A) The director of natural resources, with the approval of the director of the Ohio history connection, shall establish policies and may adopt rules necessary to implement and administer sections [1506.30](#) to [1506.36](#) of the Revised Code. Not less than forty-five days prior to adopting a rule under this section or section [1506.31](#) of the Revised Code, the director of natural resources shall send a copy of the proposed rule to the director of the Ohio history connection, who shall promptly review it. Not more than thirty days after receiving the proposed rule, the director of the Ohio history connection shall return the rule to the director of natural resources together with the former director's written approval or disapproval of the proposed rule. If the director of the Ohio history connection disapproves the rule, the director shall explain the reasons for the disapproval and any amendments to the rule the director considers necessary to obtain the director's approval. The director of natural resources shall not adopt a rule under those sections that has not been approved by the director of the Ohio history connection. If the director of the Ohio history connection does not respond within thirty days as prescribed in this section, the rule is deemed approved by the director.

(B) The director of natural resources shall inform the public of the requirements of sections [1506.30](#) to [1506.36](#) of the Revised Code and any policies established and rules adopted under them. In complying with this section, the director may establish or conduct educational programs or seminars, print and distribute informational pamphlets, and provide detailed information to organizations that conduct scuba diving training programs.

(C) The director of natural resources may hire or contract with a marine archaeologist, a marine historian, a marine surveyor, or any combination of these persons for the purposes of implementing and administering sections [1506.30](#) to [1506.36](#) of the Revised Code and any rules adopted under them.

Amended by 131st General Assembly File No. TBD, HB 141, §1, eff. 9/29/2015.

Effective Date: 03-02-1992; 12-30-2004; 06-27-2005

### **[1506.35 Revoking salvage permit.](#)**

(A) The director of natural resources may suspend or revoke, in accordance with Chapter 119. of the Revised Code, a permit issued under section [1506.32](#) of the Revised Code if the permit holder has done either of the following:

(1) Failed to comply with sections [1506.30](#) to [1506.36](#) of the Revised Code, any rules adopted under those sections, or any provision or condition of the holder's permit;

(2) Damaged abandoned property other than in accordance with the provisions or conditions of the permit.

(B) Any motor vehicle, as defined in section [4501.01](#) of the Revised Code, watercraft, as defined in section 1546.01 of the Revised Code, mechanical or other assistance, scuba gear, sonar equipment, or other equipment used by any person in the course of committing a third or subsequent violation of division (K) of section [1506.32](#)

of the Revised Code shall be considered contraband for the purposes of Chapter 2981. of the Revised Code, except that proceeds from the sale of such contraband shall be disposed of in the following order:

- (1) To the payment of the costs incurred in the forfeiture proceedings under Chapter 2981. of the Revised Code;
- (2) To the payment of the balance due on any security interest preserved under division (F) of section [2981.04](#) of the Revised Code;
- (3) To the payment of any costs incurred by the seizing agency under Chapter 2981. of the Revised Code in connection with the storage, maintenance, security, and forfeiture of the contraband;
- (4) Fifty per cent of the remaining money to the credit of the Lake Erie submerged lands preserves fund created in division (C) of this section, and fifty per cent of the remaining money to the Ohio history connection for deposit into the fund created pursuant to division (C) of section [149.56](#) of the Revised Code.

(C) There is hereby created in the state treasury the Lake Erie submerged lands preserves fund. The fund shall be composed of moneys credited to it under division (B)(4) of this section and division (D)(2) of section [1506.33](#) of the Revised Code, all appropriations, contributions, and gifts made to it, and any federal grants received by the department of natural resources for the purposes of sections [1506.30](#) to [1506.36](#) of the Revised Code. The director shall use the moneys in the Lake Erie submerged lands preserves fund solely to implement and administer sections [1506.30](#) to [1506.36](#) of the Revised Code.

(D) The director may request the attorney general to, and the attorney general shall, bring a civil action in any court of competent jurisdiction for any of the following purposes:

- (1) To enforce compliance with or restrain violation of sections [1506.30](#) to [1506.36](#) of the Revised Code, any rules adopted under those sections, or any permit issued under section [1506.32](#) of the Revised Code;
- (2) To enjoin the further removal of abandoned property or archaeological material from Lake Erie;
- (3) To order the restoration of an area affected by a violation of sections [1506.30](#) to [1506.36](#) of the Revised Code or of a permit issued under section [1506.32](#) of the Revised Code to its prior condition.

Any action under this division is a civil action governed by the Rules of Civil Procedure.

(E) A peace officer of a county, township, or municipal corporation, a wildlife officer designated under section [1531.13](#) of the Revised Code , and a natural resources officer appointed under section [1501.24](#) of the Revised Code may enforce compliance with sections [1506.30](#) to [1506.36](#) of the Revised Code, any rules adopted under those sections, and any permit issued under section [1506.32](#) of the Revised Code and may make arrests for violation of those laws, rules, and permits.

Amended by 131st General Assembly File No. TBD, SB 293, §1, eff. 9/14/2016.

Amended by 131st General Assembly File No. TBD, HB 141, §1, eff. 9/29/2015.

Effective Date: 10-20-1994; 12-30-2004; 06-27-2005; 07-01-2007.

### **[1506.36 Exempted activities.](#)**

Sections [1506.30](#) to [1506.35](#) of the Revised Code do not limit the right of:

- (A) Any person to engage in recreational diving in Lake Erie, except at a site of abandoned property to which the director of natural resources has limited access during the term of a permit pursuant to division (J) of section [1506.32](#) of the Revised Code;
- (B) Any person to own any abandoned property submerged in Lake Erie that was recovered before March 2, 1992, or released to the person under division (B) or (D) of section [1506.33](#) of the Revised Code;
- (C) The department of natural resources or the Ohio history connection to recover or contract for the recovery of abandoned property in Lake Erie;

(D) Any person to take and remove sand, gravel, stone, or other minerals or substances from and under the bed of Lake Erie in accordance with section [1505.07](#) of the Revised Code.

Amended by 131st General Assembly File No. TBD, HB 141, §1, eff. 9/29/2015.

Effective Date: 03-02-1992 .

### **1506.37 [Repealed].**

Effective Date: 12-30-2004.

### **1506.38 Chief of division of water is erosion agent for purposes of cooperation with federal authorities.**

The director of natural resources shall act as the erosion agent of the state for the purpose of cooperating with the secretary of the army, acting through the chief of engineers of the United States army corps of engineers in the department of defense. The director shall cooperate with the secretary in carrying out, and may conduct, investigations and studies of conditions along the shorelines of Lake Erie and of the bays and projections therefrom, and of the islands therein, within the territorial waters of the state, with a view to devising and perfecting economical and effective methods and works for preventing, correcting, and controlling shore erosion and damage therefrom and controlling the inundation of improved property by the waters of Lake Erie, its bays, and associated inlets.

Effective Date: 2007 HB119 09-29-2007.

### **1506.39 Assistance of other state employees.**

The director of natural resources, in the discharge of the director's duties under sections [1506.38](#) to [1506.48](#) of the Revised Code, may call to the director's assistance, temporarily, any engineers or other employees in any state department, or in the Ohio state university or other educational institutions financed wholly or in part by the state, for the purpose of devising the most effective and economical methods of controlling shore erosion and damage from it and controlling the inundation of improved property by the waters of Lake Erie and its bays and associated inlets.

Such engineers and employees shall not receive any additional compensation over that which they receive from the departments or institutions by which they are employed, but they shall be reimbursed for their actual necessary expenses incurred while working under the direction of the director on erosion and inundation projects.

Effective Date: 2007 HB119 09-29-2007.

### **1506.40 Application for shore structure permit.**

No person shall construct a beach, groin, or other structure to control erosion, wave action, or inundation along or near the Ohio shoreline of Lake Erie, including related islands, bays, and inlets, without first obtaining a shore structure permit from the director of natural resources.

The application for a permit shall include detailed plans and specifications prepared by a professional engineer registered under Chapter 4733. of the Revised Code. An applicant shall provide appropriate evidence of compliance with any applicable provisions of this chapter and Chapters 1505. and 1521. of the Revised Code, as determined by the director. A temporary shore structure permit may be issued by the director if it is determined necessary to safeguard life, health, or property.

Each application or reapplication for a permit under this section shall be accompanied by a non-refundable fee as the director shall prescribe by rule.

If the application is approved, the director shall issue a permit to the applicant authorizing construction of the project. If requested in writing by the applicant within thirty days of issuance of a notice of disapproval of the application, the director shall conduct an adjudication hearing under Chapter 119. of the Revised Code, except



sections [119.12](#) and [119.121](#) of the Revised Code. After reviewing the record of the hearing, the director shall issue a final order approving the application, disapproving it, or approving it conditioned on the making of specified revisions in the plans and specifications.

The director, by rule, shall limit the period during which a construction permit issued under this section is valid and shall establish reapplication requirements governing a construction permit that expires before construction is completed.

In accordance with Chapter 119. of the Revised Code, the director shall adopt, and may amend or rescind, such rules as are necessary for the administration, implementation, and enforcement of this section.

Effective Date: 2007 HB119 09-29-2007.

#### **1506.41 Permit and lease fund.**

All moneys derived from the granting of permits and leases under section [1505.07](#) of the Revised Code for the removal of sand, gravel, stone, gas, oil, and other minerals and substances from and under the bed of Lake Erie and from applications for shore structure permits submitted under section [1506.40](#) of the Revised Code shall be paid into the state treasury to the credit of the permit and lease fund, which is hereby created. Notwithstanding any section of the Revised Code relating to the distribution or crediting of fines for violations of the Revised Code, all fines imposed under division (A) of section [1505.99](#) of the Revised Code and under division (C) of section [1506.99](#) of the Revised Code shall be paid into that fund. The fund shall be administered by the department of natural resources for the protection of Lake Erie shores and waters; investigation and control of erosion; the planning, development, and construction of facilities for recreational use of Lake Erie; implementation of section [1506.40](#) of the Revised Code; preparation of the state shore erosion plan under section [1506.47](#) of the Revised Code; and state administration of Lake Erie coastal erosion areas under sections [1506.06](#) and [1506.07](#) of the Revised Code.

Effective Date: 2007 HB119 09-29-2007.

#### **1506.42 Agreements with subdivisions or state agencies for erosion projects.**

The state, acting through the director of natural resources, subject to section [1506.46](#) of the Revised Code, may enter into agreements with counties, townships, municipal corporations, park boards, and conservancy districts, other political subdivisions, or any state departments or divisions for the purpose of constructing and maintaining projects to control erosion along the Ohio shoreline of Lake Erie and in any rivers and bays that are connected with Lake Erie and any other watercourses that flow into Lake Erie. Such projects also may be constructed on any Lake Erie island that is situated within the boundaries of the state.

The cost of such shore erosion projects that are for the benefit of public littoral property shall be prorated on the basis of two-thirds of the total cost to the state through appropriations made to the department of natural resources and one-third of the cost to the counties, townships, municipal corporations, park boards, conservancy districts, or other political subdivisions.

If a shore erosion emergency is declared by the governor, the state, acting through the director, may spend whatever state funds are available to alleviate shore erosion, without participation by any political subdivision, regardless of whether the project will benefit public or private littoral property.

A board of county commissioners, acting for the county over which it has jurisdiction, may enter into and carry out agreements with the director for the construction and maintenance of projects to control shore erosion. In providing the funds for the county's proportionate share of the cost of constructing and maintaining the projects referred to in this section, the board shall be governed by and may issue and refund bonds in accordance with Chapter 133. of the Revised Code.

A municipal corporation or a township, acting through the legislative authority or the board of township trustees, may enter into and carry out agreements with the director for the purpose of constructing and maintaining projects to control shore erosion. In providing the funds for the municipal corporation's or township's

proportionate share of the cost of constructing and maintaining the projects referred to in this section, a municipal corporation or township may issue and refund bonds in accordance with Chapter 133. of the Revised Code. The contract shall be executed on behalf of the municipal corporation or township by the mayor, city manager, or other chief executive officer who has the authority to act for the municipal corporation or township.

Conservancy districts may enter into and carry out agreements with the director, in accordance with the intent of this section, under the powers conferred upon conservancy districts under Chapter 6101. of the Revised Code.

Park boards may enter into and carry out agreements with the director, in accordance with the intent of this section, and issue bonds for that purpose under the powers conferred upon park districts under Chapter 1545. of the Revised Code.

The director shall approve and supervise all projects that are to be constructed in accordance with this section. The director shall not proceed with the construction of any project until all funds that are to be paid by the county, township, municipal corporation, park board, or conservancy district, in accordance with the terms of the agreement entered into between the director and the county, township, municipal corporation, park board, or conservancy district, are in the director's possession and deposited in the shore erosion fund, which is hereby created in the state treasury. If the director finds it to be in the best interests of the state to construct projects as set forth in this section by the state itself, without the financial contribution of counties, townships, municipal corporations, park boards, or conservancy districts, the director may construct the projects.

In deciding whether to assist a county or municipal corporation in constructing and maintaining a project under this section, the state, acting through the director, shall consider, among other factors, whether the county or municipal corporation has adopted or is in the process of adopting a Lake Erie coastal erosion area resolution or ordinance under division (D) of section [1506.07](#) of the Revised Code.

All projects constructed by the state in conformity with sections [1506.38](#) to [1506.46](#) of the Revised Code shall be constructed subject to sections [153.01](#) to [153.20](#) of the Revised Code, except that the Ohio facilities construction commission is not required to prepare the plans and specifications for those projects.

Amended by 129th General Assembly File No.127, HB 487, §101.01, eff. 9/10/2012.

Effective Date: 2007 HB119 09-29-2007

### **[1506.43 Contracts for erosion projects.](#)**

The director of natural resources may enter into a contract with any county, township, municipal corporation, conservancy district, or park board that has an agreement with the state in accordance with section [1506.42](#) of the Revised Code for the construction of a shore erosion project. No contract shall be let until all money that is to be paid by the political subdivision entering into the agreement has been deposited in the shore erosion fund created in that section.

Effective Date: 2007 HB119 09-29-2007.

### **[1506.44 Agreements for loans for erosion control structures.](#)**

(A) A board of county commissioners may use a loan obtained under division (C) of this section to provide financial assistance to any person who owns real property in a coastal erosion area and who has received a permit under section [1506.40](#) of the Revised Code to construct an erosion control structure in that coastal erosion area. The board shall enter into an agreement with the person that complies with all of the following requirements:

(1) The agreement shall identify the person's real property for which the erosion control structure is being constructed and shall include a legal description of that property and a reference to the volume and page of the deed record in which the title of that person to that property is recorded.

(2) In accordance with rules adopted by the Ohio water development authority under division (V) of section [6121.04](#) of the Revised Code for the purposes of division (C) of this section and pursuant to an agreement

between the board and the authority under that division, the board shall agree to cause payments to be made by the authority to the contractor hired by the person to construct an erosion control structure in amounts not to exceed the total amount specified in the agreement between the board and the person.

(3) The person shall agree to pay to the board, or to the authority as the assignee pursuant to division (C) of this section, the total amount of the payments plus administrative or other costs of the board or the authority at times, in installments, and bearing interest as specified in the agreement.

The agreement may contain additional provisions that the board determines necessary to safeguard the interests of the county or to comply with an agreement entered into under division (C) of this section.

(B) Upon entering into an agreement under division (A) of this section, the board shall do all of the following:

(1) Cause the agreement to be recorded in the county deed records in the office of the county recorder of the county in which the real property is situated. Failure to record the agreement does not affect the validity of the agreement or the collection of any amounts due under the agreement.

(2) Establish by resolution an erosion control repayment fund into which shall be deposited all amounts collected under division (B)(3) of this section. Moneys in that fund shall be used by the board for the repayment of the loan and for administrative or other costs of the board or the authority as specified in an agreement entered into under division (C) of this section. If the amount of money in the fund is inadequate to repay the loan when due, the board of county commissioners, by resolution, may advance money from any other fund in order to repay the loan if that use of the money from the other fund is not in conflict with law. If the board so advances money in order to repay the loan, the board subsequently shall reimburse each fund from which the board advances money with moneys from the erosion control repayment fund.

(3) Bill and collect all amounts when due under the agreement entered into under division (A) of this section. The board shall certify amounts not paid when due to the county auditor, who shall enter the amounts on the real property tax list and duplicate against the property identified under division (A)(1) of this section. The amounts not paid when due shall be a lien on that property from the date on which the amounts are placed on the tax list and duplicate and shall be collected in the same manner as other taxes.

(C) A board may apply to the authority for a loan for the purpose of entering into agreements under division (A) of this section. The loan shall be for an amount and on the terms established in an agreement between the board and the authority. The board may assign any agreements entered into under division (A) of this section to the authority in order to provide for the repayment of the loan and may pledge any lawfully available revenues to the repayment of the loan, provided that no moneys raised by taxation shall be obligated or pledged by the board for the repayment of the loan. Any agreement with the authority pursuant to this division is not subject to Chapter 133. of the Revised Code or any requirements or limitations established in that chapter.

(D) The authority, as assignee of any agreement pursuant to division (C) of this section, may enforce and compel the board and the county auditor by mandamus pursuant to Chapter 2731. of the Revised Code to comply with division (B) of this section in a timely manner.

(E) The construction of an erosion control structure by a contractor hired by an individual homeowner, group of individual homeowners, or homeowners association that enters into an agreement with a board under division (A) of this section is not a public improvement, as defined in section [4115.03](#) of the Revised Code, and is not subject to competitive bidding or public bond laws.

Effective Date: 2007 HB119 09-29-2007.

### **[1506.45 Acquiring lands.](#)**

The state, or any county, township, municipal corporation, conservancy district, or park board that has entered into a contract under section [1506.43](#) of the Revised Code, may acquire lands by gift or devise, purchase, or appropriation. In case of appropriation, the proceedings shall be instituted in the name of the state or the political subdivision and shall be conducted in the manner provided for the appropriation of private property by the state

or the political subdivision insofar as those proceedings are applicable. Either the fee or any lesser interest may be acquired as the state or the political subdivision considers advisable.

Effective Date: 2007 HB119 09-29-2007.

#### **1506.46 Action taken by chief.**

Any action taken by the director of natural resources under sections [1506.38](#) to [1506.48](#) of the Revised Code shall not be deemed in conflict with certain powers and duties conferred upon and delegated to federal agencies and to municipal corporations under Section 7 of Article XVIII, Ohio Constitution, or as provided by sections [721.04](#) to [721.11](#) of the Revised Code.

Effective Date: 2007 HB119 09-29-2007.

#### **1506.47 Plan for management of shore erosion along Lake Erie.**

The director of natural resources, in cooperation with appropriate offices and divisions, including the division of geological survey, may prepare a plan for the management of shore erosion in the state along Lake Erie, its bays, and associated inlets, revise the plan whenever it can be made more effective, and make the plan available for public inspection. In the preparation of the plan, the director may employ such existing plans as are available.

The director also may establish a program to provide technical assistance on shore erosion control measures to municipal corporations, counties, townships, conservancy districts, park boards, and shoreline property owners.

Effective Date: 2007 HB119 09-29-2007.

#### **1506.48 Reappraising real property damaged or destroyed by shore erosion.**

Upon application of any owner of real property damaged or destroyed by shore erosion, the county auditor of the county in which the real property is situated shall cause a reappraisal to be made and shall place the property on the tax list at its true value in money.

Whenever the county auditor finds that ninety per cent or more of the area of any littoral parcel of land appearing upon the tax duplicate has been eroded and lies within the natural boundaries of Lake Erie and that the remainder of the parcel, if any, has no taxable value, the auditor may certify that finding to the county board of revision. Upon consideration thereof, the board may authorize removal of the parcel from the tax duplicate and cancellation of all current and delinquent taxes, assessments, interest, and penalties charged against the parcel.

Effective Date: 2007 HB119 09-29-2007.

#### **1506.99 Penalty.**

(A) Whoever violates division (A) of section [1506.09](#) of the Revised Code shall be fined not less than one hundred nor more than five hundred dollars for each offense.

(B) Whoever violates division (K) of section [1506.32](#) of the Revised Code is guilty of a misdemeanor of the third degree.

(C) Whoever violates sections [1506.38](#) to [1506.48](#) of the Revised Code shall be fined not less than one hundred dollars nor more than five hundred dollars for each offense. Each day of violation constitutes a separate offense.

Effective Date: 07-01-1996; 2007 HB119 09-29-2007 .