

As Introduced

134th General Assembly

Regular Session

2021-2022

H. B. No. 734

Representatives Miller, K., Lampton

A BILL

To amend sections 303.21, 303.211, 519.21, 519.211, 1
and 5713.30 and to enact sections 303.215, 2
519.215, 6111.0311, 6111.452, 6111.453, and 3
6111.454 of the Revised Code to establish 4
procedures and requirements governing biosolid 5
lagoons and biodigestion facilities, including 6
granting county and township zoning authority 7
over those lagoons and facilities, and to modify 8
the CAUV eligibility requirements for certain 9
land used to produce biofuels. 10

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 303.21, 303.211, 519.21, 519.211, 11
and 5713.30 be amended and sections 303.215, 519.215, 6111.0311, 12
6111.452, 6111.453, and 6111.454 of the Revised Code be enacted 13
to read as follows: 14

Sec. 303.21. (A) Except as otherwise provided in division 15
(B) of this section, sections 303.01 to 303.25 of the Revised 16
Code do not confer any power on any county rural zoning 17
commission, board of county commissioners, or board of zoning 18
appeals to prohibit the use of any land for agricultural 19

purposes or the construction or use of buildings or structures 20
incident to the use for agricultural purposes of the land on 21
which such buildings or structures are located, including 22
buildings or structures that are used primarily for vinting and 23
selling wine and that are located on land any part of which is 24
used for viticulture, and no zoning certificate shall be 25
required for any such building or structure. 26

(B) A county zoning resolution, or an amendment to such 27
resolution, may in any platted subdivision approved under 28
section 711.05, 711.09, or 711.10 of the Revised Code, or in any 29
area consisting of fifteen or more lots approved under section 30
711.131 of the Revised Code that are contiguous to one another, 31
or some of which are contiguous to one another and adjacent to 32
one side of a dedicated public road, and the balance of which 33
are contiguous to one another and adjacent to the opposite side 34
of the same dedicated public road regulate: 35

(1) Agriculture on lots of one acre or less; 36

(2) Buildings or structures incident to the use of land 37
for agricultural purposes on lots greater than one acre but not 38
greater than five acres by: set back building lines; height; and 39
size; 40

(3) Dairying and animal and poultry husbandry on lots 41
greater than one acre but not greater than five acres when at 42
least thirty-five per cent of the lots in the subdivision are 43
developed with at least one building, structure, or improvement 44
that is subject to real property taxation or that is subject to 45
the tax on manufactured and mobile homes under section 4503.06 46
of the Revised Code. After thirty-five per cent of the lots are 47
so developed, dairying and animal and poultry husbandry shall be 48
considered nonconforming use of land and buildings or structures 49

pursuant to section 303.19 of the Revised Code. 50

Division (B) of this section confers no power on any 51
county rural zoning commission, board of county commissioners, 52
or board of zoning appeals to regulate agriculture, buildings or 53
structures, and dairying and animal and poultry husbandry on 54
lots greater than five acres. 55

(C) Such sections confer no power on any board of county 56
commissioners, county rural zoning commission, or board of 57
zoning appeals to prohibit in a district zoned for agricultural, 58
industrial, residential, or commercial uses, the use of any land 59
for: 60

(1) A farm market where fifty per cent or more of the 61
gross income received from the market is derived from produce 62
raised on farms owned or operated by the market operator in a 63
normal crop year. However, a board of county commissioners, as 64
provided in section 303.02 of the Revised Code, may regulate 65
such factors pertaining to farm markets as size of the 66
structure, size of parking areas that may be required, set back 67
building lines, and egress or ingress, where such regulation is 68
necessary to protect the public health and safety. 69

(2) ~~Biodiesel~~ Except as provided in section 303.215 of the 70
Revised Code, biodiesel production, biomass energy production, 71
or electric or heat energy production if the land on which the 72
production facility is located qualifies as land devoted 73
exclusively to agricultural use under sections 5713.30 to 74
5713.37 of the Revised Code for real property tax purposes. As 75
used in division (C) (2) of this section, "biodiesel," "biomass 76
energy," and "electric or heat energy" have the same meanings as 77
in section 5713.30 of the Revised Code. 78

(3) ~~Biologically~~ Except as provided in section 303.215 of 79
the Revised Code, biologically derived methane gas production if 80
~~the~~ both of the following apply: 81

(a) The land on which the production facility is located 82
qualifies as land devoted exclusively to agricultural use under 83
sections 5713.30 to 5713.37 of the Revised Code for real 84
property tax purposes ~~and if the~~ . 85

(b) The facility that produces the biologically derived 86
methane gas does not produce more than seventeen million sixty 87
thousand seven hundred ten British thermal units, five 88
megawatts, or both. 89

(4) Agritourism. However, a board of county commissioners, 90
as provided in section 303.02 of the Revised Code, may regulate 91
such factors pertaining to agritourism, except farm markets as 92
described in division (C) (1) of this section, as size of a 93
structure used primarily for agritourism, size of parking areas 94
that may be required, setback building lines for structures used 95
primarily for agritourism, and egress or ingress where such 96
regulation is necessary to protect public health and safety. 97

Nothing in division (C) (4) of this section confers power 98
on a county zoning commission, board of county commissioners, or 99
board of zoning appeals to require any parking area to be 100
improved in any manner, including requirements governing 101
drainage, parking area base, parking area paving, or any other 102
improvement. 103

Nothing in division (C) (4) of this section confers power 104
on a county zoning commission, board of county commissioners, or 105
board of zoning appeals to prohibit the use of any land or the 106
construction or use of buildings or structures that are used 107

primarily for vinting and selling wine that are located on land 108
any part of which is used for viticulture as provided in 109
division (A) of this section. 110

(D) (1) As used in division (C) (3) of this section, 111
"biologically derived methane gas" has the same meaning as in 112
section 5713.30 of the Revised Code. 113

(2) As used in division (C) (4) of this section, 114
"agritourism" has the same meaning as in section 901.80 of the 115
Revised Code. 116

Sec. 303.211. ~~(A) (A) (1)~~ Except as otherwise provided in 117
division (B) or (C) of this section, sections 303.01 to 303.25 118
of the Revised Code do not confer any power on any board of 119
county commissioners or board of zoning appeals in respect to 120
the location, erection, construction, reconstruction, change, 121
alteration, maintenance, removal, use, or enlargement of any 122
buildings or structures of any public utility or railroad, 123
whether publicly or privately owned, or the use of land by any 124
public utility or railroad for the operation of its business. ~~As~~ 125

(2) As used in this division (A) (1) of this section, 126
"public utility" does not include a person that owns or operates 127
a any of the following: 128

(a) A solid waste facility or a solid waste transfer 129
facility, other than a publicly owned solid waste facility or a 130
publicly owned solid waste transfer facility, that has been 131
issued a permit under Chapter 3734. of the Revised Code ~~or a~~; 132

(b) A construction and demolition debris facility that has 133
been issued a permit under Chapter 3714. of the Revised Code; 134

(c) A biosolid lagoon, as defined in section 6111.0311 of 135
the Revised Code; 136

<u>(d) A biodigestion facility, as defined in section</u>	137
<u>6111.452 of the Revised Code.</u>	138
(B) (1) As used in this division, "telecommunications tower" means any free-standing structure, or any structure to be attached to a building or other structure, that meets all of the following criteria:	139
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(a) The free-standing or attached structure is proposed to be constructed on or after October 31, 1996.	143
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(b) The free-standing or attached structure is proposed to be owned or principally used by a public utility engaged in the provision of telecommunications services.	145
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(c) The free-standing or attached structure is proposed to be located in an unincorporated area of a township, in an area zoned for residential use.	148
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(d) (i) The free-standing structure is proposed to top at a height that is greater than either the maximum allowable height of residential structures within the zoned area as set forth in the applicable zoning regulations, or the maximum allowable height of such a free-standing structure as set forth in any applicable zoning regulations in effect immediately prior to October 31, 1996, or as those regulations subsequently are amended.	151
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(ii) The attached structure is proposed to top at a height that is greater than either the height of the building or other structure to which it is to be attached, or the maximum allowable height of such an attached structure as set forth in any applicable zoning regulations in effect immediately prior to October 31, 1996, or as those regulations subsequently are amended.	159
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(e) The free-standing or attached structure is proposed to 166
have attached to it radio frequency transmission or reception 167
equipment. 168

(2) Sections 303.01 to 303.25 of the Revised Code confer 169
power on a board of county commissioners or board of zoning 170
appeals with respect to the location, erection, construction, 171
reconstruction, change, alteration, removal, or enlargement of a 172
telecommunications tower, but not with respect to the 173
maintenance or use of such a tower or any change or alteration 174
that would not substantially increase the tower's height. 175
However, the power so conferred shall apply to a particular 176
telecommunications tower only upon the provision of a notice, in 177
accordance with division (B) (4) (a) of this section, to the 178
person proposing to construct the tower. 179

(3) Any person who plans to construct a telecommunications 180
tower in an area subject to county zoning regulations shall 181
provide both of the following by certified mail: 182

(a) Written notice to the board of township trustees of 183
the township in which the tower is proposed to be constructed 184
and to each owner of property, as shown on the county auditor's 185
current tax list, whose land is contiguous to or directly across 186
a street or roadway from the property on which the tower is 187
proposed to be constructed, stating all of the following in 188
clear and concise language: 189

(i) The person's intent to construct the tower; 190

(ii) A description of the property sufficient to identify 191
the proposed location; 192

(iii) That, no later than fifteen days after the date of 193
mailing of the notice, such board of township trustees or any 194

such property owner may give written notice to the board of 195
county commissioners requesting that sections 303.01 to 303.25 196
of the Revised Code apply to the proposed location of the tower 197
as provided under division (B) (4) (a) of this section. 198

If the notice to the board of township trustees or to a 199
property owner is returned unclaimed or refused, the person 200
shall mail the notice by regular mail. The failure of delivery 201
of the notice does not invalidate the notice. 202

(b) Written notice to the board of county commissioners of 203
the information specified in divisions (B) (3) (a) (i) and (ii) of 204
this section. The notice to the board also shall include 205
verification that the person has complied with division (B) (3) 206
(a) of this section. 207

(4) (a) If the board of county commissioners receives 208
notice from the board of township trustees or a property owner 209
under division (B) (3) (a) (iii) of this section within the time 210
specified in that division or if a member of the board of county 211
commissioners makes an objection to the proposed location of the 212
telecommunications tower within fifteen days after the date of 213
mailing of the notice sent under division (B) (3) (b) of this 214
section, the board of county commissioners shall send the person 215
proposing to construct the tower written notice that the tower 216
is subject to the power conferred by and in accordance with 217
division (B) (2) of this section. The notice shall be sent no 218
later than five days after the earlier of the date the board 219
first receives such a notice from the board of township trustees 220
or a property owner or the date upon which a member of the board 221
of county commissioners makes an objection. Upon the date of 222
mailing of the notice to the person, sections 303.01 to 303.25 223
of the Revised Code shall apply to the tower. 224

(b) If the board of county commissioners receives no notice under division (B) (3) (a) (iii) of this section within the time prescribed by that division or no board member has an objection as provided under division (B) (4) (a) of this section within the time prescribed by that division, division (A) of this section shall apply to the tower without exception.

(C) Sections 303.01 to 303.25 of the Revised Code confer power on a board of county commissioners or board of zoning appeals with respect to the location, erection, construction, reconstruction, change, alteration, maintenance, removal, use, or enlargement of any buildings or structures of a public utility engaged in the business of transporting persons or property, or both, or providing or furnishing such transportation service, over any public street, road, or highway in this state, and with respect to the use of land by any such public utility for the operation of its business, to the extent that any exercise of such power is reasonable and not inconsistent with Chapters 4901., 4903., 4905., 4909., 4921., and 4923. of the Revised Code. However, this division confers no power on a board of county commissioners or board of zoning appeals with respect to a building or structure of, or the use of land by, a person engaged in the transportation of farm supplies to the farm or farm products from farm to market or to food fabricating plants.

(D) Sections 303.01 to 303.25 of the Revised Code confer no power on any county rural zoning commission, board of county commissioners, or board of zoning appeals to prohibit the sale or use of alcoholic beverages in areas where the establishment and operation of any retail business, hotel, lunchroom, or restaurant is permitted.

(E) (1) Any person who plans to construct a telecommunications tower within one hundred feet of a residential dwelling shall provide a written notice to the owner of the residential dwelling and to the person occupying the residence, if that person is not the owner of the residence, stating in clear and concise language the person's intent to construct the tower and a description of the property sufficient to identify the proposed location. The notice shall be sent by certified mail. If the notice is returned unclaimed or refused, the person shall mail the notice by regular mail. The failure of delivery does not invalidate the notice.

(2) As used in division (E) of this section:

(a) "Residential dwelling" means a building used or intended to be used as a personal residence by the owner, part-time owner, or lessee of the building, or any person authorized by such a person to use the building as a personal residence.

(b) "Telecommunications tower" has the same meaning as in division (B) (1) of this section, except that the proposed location of the free-standing or attached structure may be an area other than an unincorporated area of a township, in an area zoned for residential use.

Sec. 303.215. (A) As used in this section:

(1) "Biosolid lagoon" has the same meaning as in section 6111.0311 of the Revised Code.

(2) "Biodigestion facility" has the same meaning as in section 6111.452 of the Revised Code.

(B) Except as provided in division (C) of this section, a county zoning resolution, or an amendment to such a resolution, may provide for the regulation of both of the following:

<u>(1) A biosolid lagoon;</u>	284
<u>(2) A biodigestion facility.</u>	285
<u>(C) A county zoning resolution, or an amendment to such a</u>	286
<u>resolution, shall not provide for the regulation of a biosolid</u>	287
<u>lagoon or a biodigestion facility to which both of the following</u>	288
<u>apply:</u>	289
<u>(1) The lagoon or facility stores or processes only</u>	290
<u>agricultural waste.</u>	291
<u>(2) The agricultural waste stored or processed at the</u>	292
<u>lagoon or facility is exclusively derived from either or both of</u>	293
<u>the following:</u>	294
<u>(a) Land that is a part of a parcel of land under common</u>	295
<u>ownership or leasehold with the parcel of land on which the</u>	296
<u>lagoon or facility is located;</u>	297
<u>(b) Land that is contiguous to the parcel of land on which</u>	298
<u>the lagoon or facility is located.</u>	299
Sec. 519.21. (A) Except as otherwise provided in divisions	300
(B) and (D) of this section, sections 519.02 to 519.25 of the	301
Revised Code confer no power on any township zoning commission,	302
board of township trustees, or board of zoning appeals to	303
prohibit the use of any land for agricultural purposes or the	304
construction or use of buildings or structures incident to the	305
use for agricultural purposes of the land on which such	306
buildings or structures are located, including buildings or	307
structures that are used primarily for vinting and selling wine	308
and that are located on land any part of which is used for	309
viticulture, and no zoning certificate shall be required for any	310
such building or structure.	311

(B) A township zoning resolution, or an amendment to such resolution, may in any platted subdivision approved under section 711.05, 711.09, or 711.10 of the Revised Code, or in any area consisting of fifteen or more lots approved under section 711.131 of the Revised Code that are contiguous to one another, or some of which are contiguous to one another and adjacent to one side of a dedicated public road, and the balance of which are contiguous to one another and adjacent to the opposite side of the same dedicated public road regulate:

(1) Agriculture on lots of one acre or less;

(2) Buildings or structures incident to the use of land for agricultural purposes on lots greater than one acre but not greater than five acres by: set back building lines; height; and size;

(3) Dairying and animal and poultry husbandry on lots greater than one acre but not greater than five acres when at least thirty-five per cent of the lots in the subdivision are developed with at least one building, structure, or improvement that is subject to real property taxation or that is subject to the tax on manufactured and mobile homes under section 4503.06 of the Revised Code. After thirty-five per cent of the lots are so developed, dairying and animal and poultry husbandry shall be considered nonconforming use of land and buildings or structures pursuant to section 519.19 of the Revised Code.

Division (B) of this section confers no power on any township zoning commission, board of township trustees, or board of zoning appeals to regulate agriculture, buildings or structures, and dairying and animal and poultry husbandry on lots greater than five acres.

(C) Such sections confer no power on any township zoning 341
commission, board of township trustees, or board of zoning 342
appeals to prohibit in a district zoned for agricultural, 343
industrial, residential, or commercial uses, the use of any land 344
for: 345

(1) A farm market where fifty per cent or more of the 346
gross income received from the market is derived from produce 347
raised on farms owned or operated by the market operator in a 348
normal crop year. However, a board of township trustees, as 349
provided in section 519.02 of the Revised Code, may regulate 350
such factors pertaining to farm markets as size of the 351
structure, size of parking areas that may be required, set back 352
building lines, and egress or ingress, where such regulation is 353
necessary to protect the public health and safety. 354

(2) ~~Biodiesel~~ Except as provided in section 519.215 of the 355
Revised Code, biodiesel production, biomass energy production, 356
or electric or heat energy production if the land on which the 357
production facility is located qualifies as land devoted 358
exclusively to agricultural use under sections 5713.30 to 359
5713.37 of the Revised Code for real property tax purposes. As 360
used in division (C) (2) of this section, "biodiesel," "biomass 361
energy," and "electric or heat energy" have the same meanings as 362
in section 5713.30 of the Revised Code. 363

(3) ~~Biologically~~ Except as provided in section 519.215 of 364
the Revised Code, biologically derived methane gas production if 365
~~the~~ both of the following apply: 366

(a) The land on which the production facility is located 367
qualifies as land devoted exclusively to agricultural use under 368
sections 5713.30 to 5713.37 of the Revised Code for real 369
property tax purposes ~~and if the~~ . 370

(b) The facility that produces the biologically derived 371
methane gas does not produce more than seventeen million sixty 372
thousand seven hundred ten British thermal units, five 373
megawatts, or both. 374

(4) Agritourism. However, a board of township trustees, as 375
provided in section 519.02 of the Revised Code, may regulate 376
such factors pertaining to agritourism, except farm markets as 377
described in division (C)(1) of this section, as size of a 378
structure used primarily for agritourism, size of parking areas 379
that may be required, setback building lines for structures used 380
primarily for agritourism, and egress or ingress where such 381
regulation is necessary to protect public health and safety. 382

Nothing in division (C)(4) of this section confers power 383
on a township zoning commission, board of township trustees, or 384
board of zoning appeals to require any parking area to be 385
improved in any manner, including requirements governing 386
drainage, parking area base, parking area paving, or any other 387
improvement. 388

Nothing in division (C)(4) of this section confers power 389
on a township zoning commission, board of township trustees, or 390
board of zoning appeals to prohibit the use of any land or the 391
construction or use of buildings or structures that are used 392
primarily for vinting and selling wine that are located on land 393
any part of which is used for viticulture as provided in 394
division (A) of this section. 395

(D) Nothing in this section prohibits a township zoning 396
commission, board of township trustees, or board of zoning 397
appeals from regulating the location of medical marijuana 398
cultivators, processors, or retail dispensaries or from 399
prohibiting such cultivators, processors, or dispensaries from 400

being located in the unincorporated territory of the township. 401

~~(D) (1)~~ (E) (1) As used in division (C) (3) of this section, 402
"biologically derived methane gas" has the same meaning as in 403
section 5713.30 of the Revised Code. 404

(2) As used in division (C) (4) of this section, 405
"agritourism" has the same meaning as in section 901.80 of the 406
Revised Code. 407

Sec. 519.211. ~~(A) (A) (1)~~ Except as otherwise provided in 408
division (B) or (C) of this section, sections 519.02 to 519.25 409
of the Revised Code confer no power on any board of township 410
trustees or board of zoning appeals in respect to the location, 411
erection, construction, reconstruction, change, alteration, 412
maintenance, removal, use, or enlargement of any buildings or 413
structures of any public utility or railroad, whether publicly 414
or privately owned, or the use of land by any public utility or 415
railroad, for the operation of its business. ~~As-~~ 416

(2) As used in this division (A) (1) of this section, 417
"public utility" does not include a person that owns or operates 418
~~a~~ any of the following: 419

(a) A solid waste facility or a solid waste transfer 420
facility, other than a publicly owned solid waste facility or a 421
publicly owned solid waste transfer facility, that has been 422
issued a permit under Chapter 3734. of the Revised Code ~~or a;~~ 423

(b) A construction and demolition debris facility that has 424
been issued a permit under Chapter 3714. of the Revised Code; 425

(c) A biosolid lagoon, as defined in section 6111.0311 of 426
the Revised Code; 427

(d) A biodigestion facility, as defined in section 428

<u>6111.452 of the Revised Code.</u>	429
(B) (1) As used in this division, "telecommunications tower" means any free-standing structure, or any structure to be attached to a building or other structure, that meets all of the following criteria:	430 431 432 433
(a) The free-standing or attached structure is proposed to be constructed on or after October 31, 1996.	434 435
(b) The free-standing or attached structure is proposed to be owned or principally used by a public utility engaged in the provision of telecommunications services.	436 437 438
(c) The free-standing or attached structure is proposed to be located in an unincorporated area of a township, in an area zoned for residential use.	439 440 441
(d) (i) The free-standing structure is proposed to top at a height that is greater than either the maximum allowable height of residential structures within the zoned area as set forth in the applicable zoning regulations, or the maximum allowable height of such a free-standing structure as set forth in any applicable zoning regulations in effect immediately prior to October 31, 1996, or as those regulations subsequently are amended.	442 443 444 445 446 447 448 449
(ii) The attached structure is proposed to top at a height that is greater than either the height of the building or other structure to which it is to be attached, or the maximum allowable height of such an attached structure as set forth in any applicable zoning regulations in effect immediately prior to October 31, 1996, or as those regulations subsequently are amended.	450 451 452 453 454 455 456
(e) The free-standing or attached structure is proposed to	457

have attached to it radio frequency transmission or reception 458
equipment. 459

(2) Sections 519.02 to 519.25 of the Revised Code confer 460
power on a board of township trustees or board of zoning appeals 461
with respect to the location, erection, construction, 462
reconstruction, change, alteration, removal, or enlargement of a 463
telecommunications tower, but not with respect to the 464
maintenance or use of such a tower or any change or alteration 465
that would not substantially increase the tower's height. 466
However, the power so conferred shall apply to a particular 467
telecommunications tower only upon the provision of a notice, in 468
accordance with division (B) (4) (a) of this section, to the 469
person proposing to construct the tower. 470

(3) Any person who plans to construct a telecommunications 471
tower in an area subject to township zoning regulations shall 472
provide both of the following by certified mail: 473

(a) Written notice to each owner of property, as shown on 474
the county auditor's current tax list, whose land is contiguous 475
to or directly across a street or roadway from the property on 476
which the tower is proposed to be constructed, stating all of 477
the following in clear and concise language: 478

(i) The person's intent to construct the tower; 479

(ii) A description of the property sufficient to identify 480
the proposed location; 481

(iii) That, no later than fifteen days after the date of 482
mailing of the notice, any such property owner may give written 483
notice to the board of township trustees requesting that 484
sections 519.02 to 519.25 of the Revised Code apply to the 485
proposed location of the tower as provided under division (B) (4) 486

(a) of this section. 487

If the notice to a property owner is returned unclaimed or 488
refused, the person shall mail the notice by regular mail. The 489
failure of delivery of the notice does not invalidate the 490
notice. 491

(b) Written notice to the board of township trustees of 492
the information specified in divisions (B) (3) (a) (i) and (ii) of 493
this section. The notice to the board also shall include 494
verification that the person has complied with division (B) (3) 495
(a) of this section. 496

(4) (a) If the board of township trustees receives notice 497
from a property owner under division (B) (3) (a) (iii) of this 498
section within the time specified in that division or if a board 499
member makes an objection to the proposed location of the 500
telecommunications tower within fifteen days after the date of 501
mailing of the notice sent under division (B) (3) (b) of this 502
section, the board shall request that the fiscal officer of the 503
township send the person proposing to construct the tower 504
written notice that the tower is subject to the power conferred 505
by and in accordance with division (B) (2) of this section. The 506
notice shall be sent no later than five days after the earlier 507
of the date the board first receives such a notice from a 508
property owner or the date upon which a board member makes an 509
objection. Upon the date of mailing of the notice to the person, 510
sections 519.02 to 519.25 of the Revised Code shall apply to the 511
tower. 512

(b) If the board of township trustees receives no notice 513
under division (B) (3) (a) (iii) of this section within the time 514
prescribed by that division or no board member has an objection 515
as provided under division (B) (4) (a) of this section within the 516

time prescribed by that division, division (A) of this section 517
shall apply to the tower without exception. 518

(C) Sections 519.02 to 519.25 of the Revised Code confer 519
power on a board of township trustees or board of zoning appeals 520
with respect to the location, erection, construction, 521
reconstruction, change, alteration, maintenance, removal, use, 522
or enlargement of any buildings or structures of a public 523
utility engaged in the business of transporting persons or 524
property, or both, or providing or furnishing such 525
transportation service, over any public street, road, or highway 526
in this state, and with respect to the use of land by any such 527
public utility for the operation of its business, to the extent 528
that any exercise of such power is reasonable and not 529
inconsistent with Chapters 4901., 4903., 4905., 4909., 4921., 530
and 4923. of the Revised Code. However, this division confers no 531
power on a board of township trustees or board of zoning appeals 532
with respect to a building or structure of, or the use of land 533
by, a person engaged in the transportation of farm supplies to 534
the farm or farm products from farm to market or to food 535
fabricating plants. 536

(D) Sections 519.02 to 519.25 of the Revised Code confer 537
no power on any township zoning commission, board of township 538
trustees, or board of zoning appeals to prohibit the sale or use 539
of alcoholic beverages in areas where the establishment and 540
operation of any retail business, hotel, lunchroom, or 541
restaurant is permitted. 542

(E) (1) Any person who plans to construct a 543
telecommunications tower within one hundred feet of a 544
residential dwelling shall provide a written notice to the owner 545
of the residential dwelling and to the person occupying the 546

residence, if that person is not the owner of the residence 547
stating in clear and concise language the person's intent to 548
construct the tower and a description of the property sufficient 549
to identify the proposed location. The notice shall be sent by 550
certified mail. If the notice is returned unclaimed or refused, 551
the person shall mail the notice by regular mail. The failure of 552
delivery does not invalidate the notice. 553

(2) As used in division (E) of this section: 554

(a) "Residential dwelling" means a building used or 555
intended to be used as a personal residence by the owner, part- 556
time owner, or lessee of the building, or any person authorized 557
by such a person to use the building as a personal residence. 558

(b) "Telecommunications tower" has the same meaning as in 559
division (B)(1) of this section, except that the proposed 560
location of the free-standing or attached structure may be an 561
area other than an unincorporated area of a township, in an area 562
zoned for residential use. 563

Sec. 519.215. (A) As used in this section: 564

(1) "Biosolid lagoon" has the same meaning as in section 565
6111.0311 of the Revised Code. 566

(2) "Biodigestion facility" has the same meaning as in 567
section 6111.452 of the Revised Code. 568

(B) Except as provided in division (C) of this section, a 569
township zoning resolution, or an amendment to such a 570
resolution, may provide for the regulation of both of the 571
following: 572

(1) A biosolid lagoon; 573

(2) A biodigestion facility. 574

(C) A township zoning resolution, or an amendment to such 575
a resolution, shall not provide for the regulation of a biosolid 576
lagoon or a biodigestion facility to which both of the following 577
apply: 578

(1) The lagoon or facility stores or processes only 579
agricultural waste. 580

(2) The agricultural waste stored or processed at the 581
lagoon or facility is exclusively derived from either or both of 582
the following: 583

(a) Land that is a part of a parcel of land under common 584
ownership or leasehold with the parcel of land on which the 585
lagoon or facility is located; 586

(b) Land that is contiguous to the parcel of land on which 587
the lagoon or facility is located. 588

Sec. 5713.30. As used in sections 5713.31 to 5713.37 and 589
5715.01 of the Revised Code: 590

(A) "Land devoted exclusively to agricultural use" means: 591

(1) Tracts, lots, or parcels of land totaling not less 592
than ten acres to which, during the three calendar years prior 593
to the year in which application is filed under section 5713.31 594
of the Revised Code, and through the last day of May of such 595
year, one or more of the following apply: 596

(a) The tracts, lots, or parcels of land were devoted 597
exclusively to commercial animal or poultry husbandry, 598
aquaculture, algaculture meaning the farming of algae, 599
apiculture, the cultivation of hemp by a person issued a hemp 600
cultivation license under section 928.02 of the Revised Code, 601
the production for a commercial purpose of timber, field crops, 602

tobacco, fruits, vegetables, nursery stock, ornamental trees, 603
sod, or flowers, or the growth of timber for a noncommercial 604
purpose, if the land on which the timber is grown is contiguous 605
to or part of a parcel of land under common ownership that is 606
otherwise devoted exclusively to agricultural use. 607

(b) The tracts, lots, or parcels of land were devoted 608
exclusively to biodiesel production, biomass energy production, 609
electric or heat energy production, or biologically derived 610
methane gas production~~if the~~, provided that either of the 611
following apply: 612

(i) If the land was valued and assessed in accordance with 613
its current agricultural use value for tax year 2022, the land 614
on which the production facility is located is contiguous to or 615
part of a parcel of land under common ownership or leasehold 616
that is otherwise devoted exclusively to agricultural use, 617
~~provided that (i) and (I)~~ at least fifty per cent of the 618
feedstock used in the production is agricultural feedstock, ~~(ii)~~ 619
(II) at least twenty per cent of the agricultural feedstock used 620
in the production is derived from parcels of land under common 621
ownership or leasehold, and ~~(iii)~~ (III) none of the feedstock 622
used in the production consists of human waste. 623

(ii) If the land was not valued and assessed in accordance 624
with its current agricultural use value for tax year 2022, none 625
of the feedstock used in production consists of (I) human waste, 626
(II) industrial waste, or (III) agricultural feedstock, unless 627
the agricultural feedstock is derived from land that is 628
contiguous to or part of a parcel of land under common ownership 629
or leasehold of the parcel of land on which the production 630
facility is located and that is otherwise devoted exclusively to 631
agricultural use. 632

As used in ~~this~~ division (A) (1) (b) of this section, 633
"agricultural feedstock" means manure and food waste, and "human 634
waste" includes sludge as defined in section 6111.01 of the 635
Revised Code. 636

(c) The tracts, lots, or parcels of land were devoted to 637
and qualified for payments or other compensation under a land 638
retirement or conservation program under an agreement with an 639
agency of the federal government. 640

(2) Tracts, lots, or parcels of land totaling less than 641
ten acres that, during the three calendar years prior to the 642
year in which application is filed under section 5713.31 of the 643
Revised Code and through the last day of May of such year, were 644
devoted exclusively to commercial animal or poultry husbandry, 645
aquaculture, algaculture meaning the farming of algae, 646
apiculture, the cultivation of hemp by a person issued a hemp 647
cultivation license under section 928.02 of the Revised Code, 648
the production for a commercial purpose of field crops, tobacco, 649
fruits, vegetables, timber, nursery stock, ornamental trees, 650
sod, or flowers where such activities produced an average yearly 651
gross income of at least twenty-five hundred dollars during such 652
three-year period or where there is evidence of an anticipated 653
gross income of such amount from such activities during the tax 654
year in which application is made, or were devoted to and 655
qualified for payments or other compensation under a land 656
retirement or conservation program under an agreement with an 657
agency of the federal government; 658

(3) Tracts, lots, or parcels of land, or portions thereof 659
that, during the previous three consecutive calendar years have 660
been designated as land devoted exclusively to agricultural use, 661
but such land has been lying idle or fallow for up to one year 662

and no action has occurred to such land that is either 663
inconsistent with the return of it to agricultural production or 664
converts the land devoted exclusively to agricultural use as 665
defined in this section. Such land shall remain designated as 666
land devoted exclusively to agricultural use provided that 667
beyond one year, but less than three years, the landowner proves 668
good cause as determined by the board of revision. 669

(4) Tracts, lots, or parcels of land, or portions thereof 670
that, during the previous three consecutive calendar years have 671
been designated as land devoted exclusively to agricultural use, 672
but such land has been lying idle or fallow because of dredged 673
material being stored or deposited on such land pursuant to a 674
contract between the land's owner and the department of natural 675
resources or the United States army corps of engineers and no 676
action has occurred to the land that is either inconsistent with 677
the return of it to agricultural production or converts the land 678
devoted exclusively to agricultural use. Such land shall remain 679
designated as land devoted exclusively to agricultural use until 680
the last year in which dredged material is stored or deposited 681
on the land pursuant to such a contract, but not to exceed five 682
years. 683

"Land devoted exclusively to agricultural use" includes 684
tracts, lots, or parcels of land or portions thereof that are 685
used for conservation practices, provided that the tracts, lots, 686
or parcels of land or portions thereof comprise twenty-five per 687
cent or less of the total of the tracts, lots, or parcels of 688
land that satisfy the criteria established in division (A) (1), 689
(2), (3), or (4) of this section together with the tracts, lots, 690
or parcels of land or portions thereof that are used for 691
conservation practices. 692

Notwithstanding any other provision of law to the 693
contrary, the existence of agritourism on a tract, lot, or 694
parcel of land that otherwise meets the definition of "land 695
devoted exclusively to agricultural use" as defined in this 696
division does not disqualify that tract, lot, or parcel from 697
valuation under sections 5713.30 to 5713.37 and 5715.01 of the 698
Revised Code. 699

A tract, lot, or parcel of land taxed under sections 700
5713.22 to 5713.26 of the Revised Code is not land devoted 701
exclusively to agricultural use. 702

A tract, lot, parcel, or portion thereof on which medical 703
marijuana, as defined by section 3796.01 of the Revised Code, is 704
cultivated or processed is not land devoted exclusively to 705
agricultural use. 706

(B) "Conversion of land devoted exclusively to 707
agricultural use" means any of the following: 708

(1) The failure of the owner of land devoted exclusively 709
to agricultural use during the next preceding calendar year to 710
file a renewal application under section 5713.31 of the Revised 711
Code without good cause as determined by the board of revision; 712

(2) The failure of the new owner of such land to file an 713
initial application under that section without good cause as 714
determined by the board of revision; 715

(3) The failure of such land or portion thereof to qualify 716
as land devoted exclusively to agricultural use for the current 717
calendar year as requested by an application filed under such 718
section; 719

(4) The failure of the owner of the land described in 720
division (A) (3) or (4) of this section to act on such land in a 721

manner that is consistent with the return of the land to 722
agricultural production after three years. 723

The construction or installation of an energy facility, as 724
defined in section 5727.01 of the Revised Code, on a portion of 725
a tract, lot, or parcel of land devoted exclusively to 726
agricultural use shall not cause the remaining portion of the 727
tract, lot, or parcel to be regarded as a conversion of land 728
devoted exclusively to agricultural use if the remaining portion 729
of the tract, lot, or parcel continues to be devoted exclusively 730
to agricultural use. 731

(C) "Tax savings" means the difference between the dollar 732
amount of real property taxes levied in any year on land valued 733
and assessed in accordance with its current agricultural use 734
value and the dollar amount of real property taxes that would 735
have been levied upon such land if it had been valued and 736
assessed for such year in accordance with Section 2 of Article 737
XII, Ohio Constitution. 738

(D) "Owner" includes, but is not limited to, any person 739
owning a fee simple, fee tail, or life estate or a buyer on a 740
land installment contract. 741

(E) "Conservation practices" are practices used to abate 742
soil erosion as required in the management of the farming 743
operation, and include, but are not limited to, the 744
installation, construction, development, planting, or use of 745
grass waterways, terraces, diversions, filter strips, field 746
borders, windbreaks, riparian buffers, wetlands, ponds, and 747
cover crops for that purpose. 748

(F) "Wetlands" has the same meaning as in section 6111.02 749
of the Revised Code. 750

(G) "Biodiesel" means a mono-alkyl ester combustible 751
liquid fuel that is derived from vegetable oils or animal fats 752
or any combination of those reagents and that meets the American 753
society for testing and materials specification D6751-03a for 754
biodiesel fuel (B100) blend stock distillate fuels. 755

(H) "Biologically derived methane gas" means gas from the 756
anaerobic digestion of organic materials, including animal waste 757
and agricultural crops and residues. 758

(I) "Biomass energy" means energy that is produced from 759
organic material derived from plants or animals and available on 760
a renewable basis, including, but not limited to, agricultural 761
crops, tree crops, crop by-products, and residues. 762

(J) "Electric or heat energy" means electric or heat 763
energy generated from manure, cornstalks, soybean waste, or 764
other agricultural feedstocks. 765

(K) "Dredged material" means material that is excavated or 766
dredged from waters of this state. "Dredged material" does not 767
include material resulting from normal farming, silviculture, 768
and ranching activities, such as plowing, cultivating, seeding, 769
and harvesting, for production of food, fiber, and forest 770
products. 771

(L) "Agritourism" has the same meaning as in section 772
901.80 of the Revised Code. 773

Sec. 6111.0311. (A) As used in this section: 774

(1) "Biosolid lagoon" means an artificial pool, whether 775
above or below ground, that is used to store biosolid wastes. 776

(2) "Biosolid waste" means all of the following: 777

(a) Human waste, including any waste that is subject to 778

standards applicable to the treatment, storage, transfer, or 779
disposal of sewage sludge under any applicable law of this 780
state; 781

(b) Food or food processing waste; 782

(c) Industrial waste; 783

(d) Agriculture waste. 784

(B) The director of environmental protection shall adopt 785
rules in accordance with Chapter 119. of the Revised Code that 786
require the owner of a biosolid lagoon to ensure that the lagoon 787
has an adequate cover at all times to effectively protect 788
against nuisance odors and other harms to public health. The 789
rules adopted by the director shall determine the specifications 790
for such a cover. 791

Sec. 6111.452. (A) As used in this section and sections 792
6111.453 and 6111.454 of the Revised Code: 793

(1) "Biosolid lagoon" and "biosolid waste" have the same 794
meanings as in section 6111.0311 of the Revised Code. 795

(2) "Biodigestion facility" means a facility that utilizes 796
biochemical decomposition of organic matter in biosolid waste 797
into methane gas and carbon dioxide by microorganisms, and 798
includes a facility engaged in biodiesel production, biomass 799
energy production, or electric or heat energy production. 800

(3) "Biodiesel," "biomass energy," and "electric or heat 801
energy" have the same meanings as in section 5713.30 of the 802
Revised Code. 803

(B) Prior to the submission of plans to the environmental 804
protection agency for a permit to install, operate, or modify a 805
biosolid lagoon or biodigestion facility that is to be located 806

in whole or in part in the unincorporated area of a county, the 807
person or entity that intends to submit such plans shall hold a 808
public meeting in the county in which the lagoon or facility is 809
to be located. The person or entity shall hold the meeting at 810
least ninety days, but not more than three hundred days, before 811
submission of such plans. 812

(C) (1) The person or entity shall provide written notice 813
of the public meeting to the board of county commissioners of 814
the county, as well as to the boards of trustees of each 815
township in which the proposed lagoon or facility is to be 816
located. Notice shall be provided at least fourteen days prior 817
to the meeting. 818

(2) The person or entity also shall post such notice in 819
the largest newspaper of general circulation in the county at 820
least fourteen days prior to the meeting. 821

(D) At the public meeting, the person or entity shall 822
provide a map of the proposed geographic boundaries of the 823
location of the lagoon or facility to the board of county 824
commissioners, as well as any other information that the board 825
may require. 826

Sec. 6111.453. (A) Not later than ninety days after the 827
public meeting required under section 6111.452 of the Revised 828
Code, the board of county commissioners may adopt a resolution 829
that does either of the following: 830

(1) Disapproves the construction of the proposed biosolid 831
lagoon or biodigestion facility that was the subject of the 832
public meeting; 833

(2) Limits the boundaries of the location of the proposed 834
biosolid lagoon or biodigestion facility to a smaller geographic 835

area within the county, provided that those limited boundaries 836
are completely within the boundary areas originally proposed by 837
the person or entity seeking plan approval for the biosolid 838
lagoon or biodigestion facility. 839

(B) (1) The director of environmental protection shall not 840
proceed to approve the plans for a proposed biosolid lagoon or 841
biodigestion facility if a board of county commissioners 842
disapproves the construction of the biosolid lagoon or 843
biodigestion facility under division (A) (1) of this section or 844
if the public meeting regarding the proposed biosolid lagoon or 845
biodigestion facility has not been conducted in accordance with 846
section 6111.452 of the Revised Code. 847

(2) The director shall limit the boundaries of any 848
approved biosolid lagoon or biodigestion facility in accordance 849
with the limitations established by a board of county 850
commissioners under division (A) (2) of this section. 851

(C) If a board of county commissioners fails to adopt a 852
resolution within the time period specified in division (A) of 853
this section, the director may proceed to approve or deny the 854
plans for the biosolid lagoon or biodigestion facility in 855
accordance with this chapter and rules adopted under it. 856

(D) A timely resolution adopted by a board of county 857
commissioners under division (A) of this section does not 858
preclude the person or entity who conducted the public meeting 859
from submitting a new or amended proposal for a biosolid lagoon 860
or biodigestion facility to the board of county commissioners 861
for consideration. 862

Sec. 6111.454. Sections 6111.452 and 6111.453 of the 863
Revised Code do not apply to a biosolid lagoon or biodigestion 864

facility to which both of the following apply: 865

(A) The lagoon or facility stores or processes only 866
agricultural waste. 867

(B) The agricultural waste stored or processed at the 868
lagoon or facility is exclusively derived from either or both of 869
the following: 870

(1) Land that is a part of a parcel of land under common 871
ownership or leasehold with the parcel of land on which the 872
lagoon or facility is located; 873

(2) Land that is contiguous to the parcel of land on which 874
the lagoon or facility is located. 875

Section 2. That existing sections 303.21, 303.211, 519.21, 876
519.211, and 5713.30 of the Revised Code are hereby repealed. 877

Section 3. Section 519.21 of the Revised Code is presented 878
in this act as a composite of the section as amended by both 879
H.B. 523 and S.B. 75 of the 131st General Assembly. The General 880
Assembly, applying the principle stated in division (B) of 881
section 1.52 of the Revised Code that amendments are to be 882
harmonized if reasonably capable of simultaneous operation, 883
finds that the composite is the resulting version of the section 884
in effect prior to the effective date of the section as 885
presented in this act. 886