

Baldwin's Ohio Revised Code Annotated [Currentness](#)

Title XXXVII. Health--Safety--Morals

▢ [Chapter 3781. Building Standards--General Provisions \(Refs & Annos\)](#)

→ General Provisions

→ **3781.01 Municipal corporation may make regulations**

(A) Chapters 3781. and 3791. of the Revised Code do not prevent the legislative authority of a municipal corporation from making further and additional regulations, not in conflict with those chapters or with the rules the board of building standards adopts. Those chapters or rules do not modify or repeal any portion of any building code adopted by a municipal corporation and in force on September 13, 1911, that is not in direct conflict with those chapters or rules.

(B) The state residential building code the board of building standards adopts pursuant to [section 3781.10 of the Revised Code](#) does not prevent a local governing authority from adopting additional regulations governing residential structures that do not conflict with the state residential building code if the procedures in division (C) of this section are followed.

(C)(1) A local governing authority shall, and any person may, notify the board of building standards of any regulation the local governing authority adopts pursuant to division (B) of this section and request the board of building standards to determine whether that regulation conflicts with the state residential building code.

(2) Not later than sixty days after receiving a notice under division (C)(1) of this section, the board shall determine whether the regulation conflicts with the state residential building code and shall notify any person who submitted the notice and the local governing authority that adopted the regulation of the board's determination.

(a) If the board determines that a conflict does not exist, the board shall take no further action with regard to the regulation. If the board determines a conflict exists and the regulation is not necessary to protect the health or safety of the persons within the local governing authority's jurisdiction, the regulation is not valid and the local governing authority may not enforce the regulation.

(b) If the board determines that a conflict exists and that the regulation is necessary to protect the health or safety of the persons within the local governing authority's jurisdiction, the board shall adopt a rule to incorporate the regulation into the state residential building code. Until the rule becomes a part of the state residential building code, the board shall grant a temporary variance to the local governing authority and any similarly situated local governing authority to which the board determines the temporary variance should apply.

(D) As used in this section, "local governing authority" means a board of county commissioners, a board of township trustees, and the legislative authority of a municipal corporation.

### 3781.02 Exceptions to certain requirements

The provisions prescribing the minimum distance at which buildings or structures shall be located from any lot line or the provisions relating to open courts and fireproof passageways do not apply when Chapters 3781. and 3791. of the Revised Code or the rules and regulations of the board of building standards are, or can be, complied with by or with the use of adjoining property, and when such adjoining property affords the widths and areas as prescribed by such chapters or the rules and regulations of the board of building standards and is available for the purposes intended, and when such adjoining property is so situated, used, dedicated, or deeded as to preclude the erection of any building or structure or part thereof on the widths and areas so used, during the existence of the building or structure.

### 3781.03 Enforcement; supervision; records

(A) The fire marshal, the fire chief of a municipal corporation that has a fire department, or the fire chief of a township that has a fire department shall enforce the provisions of this chapter and Chapter 3791. of the Revised Code that relate to fire prevention.

(B) The superintendent of the division of industrial compliance, or the building inspector or commissioner of buildings in a municipal corporation, county, or township in which the building department is certified by the board of building standards under [section 3781.10 of the Revised Code](#) shall enforce in the jurisdiction of each entity all the provisions in this chapter and Chapter 3791. of the Revised Code and any rules adopted pursuant to those chapters that relate to the construction, arrangement, and erection of all buildings or parts of buildings, as defined in [section 3781.06 of the Revised Code](#), including the sanitary condition of those buildings in relation to heating and ventilation.

(C) The division of industrial compliance in the department of commerce, boards of health of health districts, certified departments of building inspection of municipal corporations, and county building departments that have authority to perform inspections pursuant to a contract under [division \(C\)\(1\) of section 3703.01 of the Revised Code](#), subject to Chapter 3703. of the Revised Code, shall enforce this chapter and Chapter 3791. of the Revised Code and the rules adopted pursuant to those chapters that relate to plumbing. Building drains are considered plumbing for the purposes of enforcement of those chapters.

(D)(1) In accordance with Chapter 3703. of the Revised Code, the department of the city engineer, in cities having such departments, the boards of health of health districts, or the sewer purveyor, as appropriate, shall have complete authority to supervise and regulate the entire sewerage and drainage system in the jurisdiction in which it is exercising the authority described in this division, including the building sewer and all laterals draining into the street sewers.

(2) In accordance with Chapter 3703. of the Revised Code, the department of the city engineer, the boards of health of health districts, or the sewer purveyor, as appropriate, shall control and supervise the installation and construction of all drains and sewers that become a part of the sewerage system and shall issue all the necessary permits and licenses for the construction and installation of all building sewers and of all other lateral drains that empty into the main sewers. The department of the city engineer, the boards of health of health districts, and the sewer purveyor, as appropriate, shall keep a permanent record of the installation and location of every drain and sewer of the drainage and sewerage system of the jurisdiction in which it has exercised the authority described in this division.

(E) This section does not exempt any officer or department from the obligation to enforce this chapter and Chapter 3791. of the Revised Code.

### **3781.031 Issuance of adjudication orders and stop work orders**

(A) Any department or agency of the state or any political subdivision that enforces Chapters 3781. and 3791. of the Revised Code or the rules adopted pursuant to those chapters, by any remedy, civil or criminal, shall issue an adjudication order within the meaning of [sections 119.06 to 119.13 of the Revised Code](#), or a stop work order as provided in this section.

(B)(1) Any person charged with enforcing Chapters 3781. and 3791. of the Revised Code or the rules or regulations adopted pursuant to those chapters may issue a stop work order whenever the person finds, after inspection, that the site preparations or structure to be constructed, or the installation of an industrialized unit, or the use of an appliance, material, assemblage, or manufactured product does not comply with Chapters 3781. and 3791. of the Revised Code or the rules adopted pursuant to those chapters. The effect of such an order shall be limited to the matter specified therein.

(2) Any adjudication order shall specify what appliances, site preparations, additions, or alterations to structures, plans, materials, assemblages, or procedures are necessary for compliance with Chapters 3781. and 3791. of the Revised Code.

(C) Upon the issuance of any order provided for in this section, the person receiving the order shall cease work upon the site preparations or structure to be constructed or the installation of an industrialized unit, or shall cease using the appliance, materials, assemblages, or manufactured product identified in the order until the appeal provided for in accordance with [section 3781.19 of the Revised Code](#), and all appeals from the hearing have been completed, or the order issued has been released.

(D) Notwithstanding Chapter 119. of the Revised Code relating to adjudication hearings and proceedings, a stenographic or mechanical record of the testimony and other evidence submitted shall be taken at the expense of the agency. Any party adversely affected by an order issued following an adjudication hearing may appeal to the court of common pleas of the county in which the party is a resident or in which the premises affected by the order is located. The court shall not be confined to the record as certified to it by the agency but any party may produce additional evidence and the court shall hear the matter upon the record and additional evidence any party introduces. The court shall not affirm the agency's order unless the preponderance of the evidence before it supports the reasonableness and lawfulness of the order and any rule of the board of building standards upon which the order is based in its application to the particular set of facts or circumstances involved in the appeal.

(E) Failure to cease work after receiving a stop work order is hereby declared a public nuisance.

### **3781.04 Jurisdiction**

A judge of the county court or municipal court judge has final jurisdiction within the territory for which he is elected or appointed in a prosecution for a violation of Chapters 3781. and 3791. of the Revised Code or any rules adopted pursuant thereto.

### **3781.05 Plumbing standards for veterans' emergency housing**

The installation and use of federal facilities, which are a reconstruction of, or relocation of, an existing facility and not a new facility, for veterans' emergency housing shall be permitted so long as the use of such facilities is limited to veterans' emergency housing and confined to such plumbing supplies and equipment as are a part of the federal structures so used and the maintenance, repair, and replacements of such parts.

### **3781.06 Definitions**

(A)(1) Any building that may be used as a place of resort, assembly, education, entertainment, lodging, dwelling, trade, manufacture, repair, storage, traffic, or occupancy by the public, any residential building, and all other buildings or parts and appurtenances of those buildings erected within this state, shall be so constructed, erected, equipped, and maintained that they shall be safe and sanitary for their intended use and occupancy.

(2) Nothing in sections 3781.06 to [3781.18](#) and [3791.04 of the Revised Code](#) shall be construed to limit the power of the public health council to adopt rules of uniform application governing manufactured home parks pursuant to [section 3733.02 of the Revised Code](#).

(B) Sections 3781.06 to [3781.18](#) and [3791.04 of the Revised Code](#) do not apply to either of the following:

(1) Buildings or structures that are incident to the use for agricultural purposes of the land on which the buildings or structures are located, provided those buildings or structures are not used in the business of retail trade. For purposes of this division, a building or structure is not considered used in the business of retail trade if fifty per cent or more of the gross income received from sales of products in the building or structure by the owner or operator is from sales of products produced or raised in a normal crop year on farms owned or operated by the seller.

(2) Existing single-family, two-family, and three-family detached dwelling houses for which applications have been submitted to the director of job and family services pursuant to [section 5104.03 of the Revised Code](#) for the purposes of operating type A family day-care homes as defined in [section 5104.01 of the Revised Code](#).

(C) As used in sections 3781.06 to [3781.18](#) and [3791.04 of the Revised Code](#):

(1) "Agricultural purposes" include agriculture, farming, dairying, pasturage, apiculture, horticulture, floriculture, viticulture, ornamental horticulture, olericulture, pomiculture, and animal and poultry husbandry.

(2) “Building” means any structure consisting of foundations, walls, columns, girders, beams, floors, and roof, or a combination of any number of these parts, with or without other parts or appurtenances.

(3) “Industrialized unit” means a building unit or assembly of closed construction fabricated in an off-site facility, that is substantially self-sufficient as a unit or as part of a greater structure, and that requires transportation to the site of intended use. “Industrialized unit” includes units installed on the site as independent units, as part of a group of units, or incorporated with standard construction methods to form a completed structural entity. “Industrialized unit” does not include a manufactured home as defined by division (C)(4) of this section or a mobile home as defined by [division \(O\) of section 4501.01 of the Revised Code](#).

(4) “Manufactured home” means a building unit or assembly of closed construction that is fabricated in an off-site facility and constructed in conformance with the federal construction and safety standards established by the secretary of housing and urban development pursuant to the “Manufactured Housing Construction and Safety Standards Act of 1974,” 88 Stat. 700, [42 U.S.C.A. 5401, 5403](#), and that has a permanent label or tag affixed to it, as specified in [42 U.S.C.A. 5415](#), certifying compliance with all applicable federal construction and safety standards.

(5) “Permanent foundation” means permanent masonry, concrete, or a footing or foundation approved by the manufactured homes commission pursuant to Chapter 4781. of the Revised Code, to which a manufactured or mobile home may be affixed.

(6) “Permanently sited manufactured home” means a manufactured home that meets all of the following criteria:

(a) The structure is affixed to a permanent foundation and is connected to appropriate facilities;

(b) The structure, excluding any addition, has a width of at least twenty-two feet at one point, a length of at least twenty-two feet at one point, and a total living area, excluding garages, porches, or attachments, of at least nine hundred square feet;

(c) The structure has a minimum 3:12 residential roof pitch, conventional residential siding, and a six-inch minimum eave overhang, including appropriate guttering;

(d) The structure was manufactured after January 1, 1995;

(e) The structure is not located in a manufactured home park as defined by [section 3733.01 of the Revised Code](#).

(7) “Safe,” with respect to a building, means it is free from danger or hazard to the life, safety, health, or welfare of persons occupying or frequenting it, or of the public and from danger of settlement, movement, disintegration, or collapse, whether such danger arises from the methods or materials of its construction or from equipment installed therein, for the purpose of lighting, heating, the transmission or utilization of electric current, or from its location or otherwise.

(8) “Sanitary,” with respect to a building, means it is free from danger or hazard to the health of persons occupying or frequenting it or to that of the public, if such danger arises from the method or materials of its construction or from any equipment installed therein, for the purpose of lighting, heating, ventilating, or plumbing.

(9) “Residential building” means a one-family, two-family, or three-family dwelling house, and any accessory structure incidental to that dwelling house. “Residential building” includes a one-family, two-family, or three-family dwelling house that is used as a model to promote the sale of a similar dwelling house. “Residential building” does not include an industrialized unit as defined by division (C)(3) of this section, a manufactured home as defined by division (C)(4) of this section, or a mobile home as defined by [division \(O\) of section 4501.01 of the Revised Code](#).

(10) “Nonresidential building” means any building that is not a residential building or a manufactured or mobile home.

(11) “Accessory structure” means a structure that is attached to a residential building and serves the principal use of the residential building. “Accessory structure” includes, but is not limited to, a garage, porch, or screened-in patio.

#### **[3781.061 Agricultural buildings exempt](#)**

Whenever a county zoning inspector under [section 303.16 of the Revised Code](#), or a township zoning inspector under [section 519.16 of the Revised Code](#), issues a zoning certificate that declares a specific building or structure is to be used in agriculture, such building is not subject to [sections 3781.06 to 3781.20](#) or [3791.04 of the Revised Code](#).

#### **[3781.07 Board of building standards; qualifications; terms](#)**

There is hereby established in the department of commerce a board of building standards consisting of eleven members appointed by the governor with the advice and consent of the senate. The board shall appoint a secretary who shall serve in the unclassified civil service for a term of six years at a salary fixed pursuant to Chapter 124. of the Revised Code. The board may employ additional staff in the classified civil service. The secretary may be removed by the board under the rules the board adopts. Terms of office shall be for four years, commencing on the fourteenth day of October and ending on the thirteenth day of October. Each member shall hold office from the date of appointment until the end of the term for which the member was appointed. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of such term. 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. One of the members appointed to the board shall be an attorney at law, admitted to the bar of this state; two shall be registered architects; two shall be professional engineers, one in the field of mechanical and one in the field of structural engineering, each of whom shall be duly licensed to practice such profession in this state; one shall be a person of recognized ability, broad training, and fifteen years experience in problems and practice incidental to the construction and equipment of buildings specified in [section 3781.06 of the Revised Code](#); one shall be a person with recognized ability and experience in the manufacture and construction of industrialized units as defined in [section 3781.06 of the Revised Code](#); one shall be a member of the fire service with recognized ability and broad training in the field of fire protection and suppression; one shall be a person with at least ten years of experience and recognized expertise in building codes and stand-

ards and the manufacture of construction materials; one shall be a general contractor with experience in residential and commercial construction; and one, chosen from a list of three names the Ohio municipal league submits to the governor, shall be the mayor of a municipal corporation in which the Ohio residential and nonresidential building codes are being enforced in the municipal corporation by a certified building department. Each member of the board, not otherwise required to take an oath of office, shall take the oath prescribed by the constitution. Each member shall receive as compensation an amount fixed pursuant to [division \(J\) of section 124.15 of the Revised Code](#), and shall receive actual and necessary expenses in the performance of official duties. The amount of such expenses shall be certified by the secretary of the board and paid in the same manner as the expenses of employees of the department of commerce are paid.

### **3781.08 Organization; employees**

The board of building standards shall organize by choosing a chairman who shall serve for a term of two years. The department of commerce shall provide and assign to the board of building standards such stenographers, clerks, experts, and other employees as are required to enable the board to perform the duties and exercise the powers imposed upon or vested in it by law.

### **3781.09 Rules of procedure**

The board of building standards may adopt its own rules of procedure not inconsistent with [sections 3781.06 to 3781.18](#), inclusive, and [section 3791.04 of the Revised Code](#), and may change them in its discretion. The votes of a majority of the members of the board are required for the adoption of any rule or regulation, or amendment, or annulment thereof. A full and complete record of all proceedings of the board shall be kept which shall be open to public inspection and authenticated in the manner provided in [section 121.20 of the Revised Code](#).

### **3781.10 Duties; separate residential and nonresidential building codes; local residential code conflicts prohibited; personnel of local building departments to be certified; conditions**

(A)(1) The board of building standards shall formulate and adopt rules governing the erection, construction, repair, alteration, and maintenance of all buildings or classes of buildings specified in [section 3781.06 of the Revised Code](#), including land area incidental to those buildings, the construction of industrialized units, the installation of equipment, and the standards or requirements for materials used in connection with those buildings. The board shall incorporate those rules into separate residential and nonresidential building codes. The standards shall relate to the conservation of energy and the safety and sanitation of those buildings.

(2) The rules governing nonresidential buildings are the lawful minimum requirements specified for those buildings and industrialized units, except that no rule other than as provided in [division \(C\) of section 3781.108 of the Revised Code](#) that specifies a higher requirement than is imposed by any section of the Revised Code is enforceable. The rules governing residential buildings are uniform requirements for residential buildings in any area with a building department certified to enforce the state residential building code. In no case shall any local code or regulation differ from the state residential building code unless that code or regulation addresses subject matter not addressed by the state res-

idential building code or is adopted pursuant to [section 3781.01 of the Revised Code](#).

(3) The rules adopted pursuant to this section are complete, lawful alternatives to any requirements specified for buildings or industrialized units in any section of the Revised Code. The board shall, on its own motion or on application made under [sections 3781.12 and 3781.13 of the Revised Code](#), formulate, propose, adopt, modify, amend, or repeal the rules to the extent necessary or desirable to effectuate the purposes of [sections 3781.06 to 3781.18 of the Revised Code](#).

(B) The board shall report to the general assembly proposals for amendments to existing statutes relating to the purposes declared in [section 3781.06 of the Revised Code](#) that public health and safety and the development of the arts require and shall recommend any additional legislation to assist in carrying out fully, in statutory form, the purposes declared in that section. The board shall prepare and submit to the general assembly a summary report of the number, nature, and disposition of the petitions filed under [sections 3781.13 and 3781.14 of the Revised Code](#).

(C) On its own motion or on application made under [sections 3781.12 and 3781.13 of the Revised Code](#), and after thorough testing and evaluation, the board shall determine by rule that any particular fixture, device, material, process of manufacture, manufactured unit or component, method of manufacture, system, or method of construction complies with performance standards adopted pursuant to [section 3781.11 of the Revised Code](#). The board shall make its determination with regard to adaptability for safe and sanitary erection, use, or construction, to that described in any section of the Revised Code, wherever the use of a fixture, device, material, method of manufacture, system, or method of construction described in that section of the Revised Code is permitted by law. The board shall amend or annul any rule or issue an authorization for the use of a new material or manufactured unit on any like application. No department, officer, board, or commission of the state other than the board of building standards or the board of building appeals shall permit the use of any fixture, device, material, method of manufacture, newly designed product, system, or method of construction at variance with what is described in any rule the board of building standards adopts or issues or that is authorized by any section of the Revised Code. Nothing in this section shall be construed as requiring approval, by rule, of plans for an industrialized unit that conforms with the rules the board of building standards adopts pursuant to [section 3781.11 of the Revised Code](#).

(D) The board shall recommend rules, codes, and standards to help carry out the purposes of [section 3781.06 of the Revised Code](#) and to help secure uniformity of state administrative rulings and local legislation and administrative action to the bureau of workers' compensation, the director of commerce, any other department, officer, board, or commission of the state, and to legislative authorities and building departments of counties, townships, and municipal corporations, and shall recommend that they audit those recommended rules, codes, and standards by any appropriate action that they are allowed pursuant to law or the constitution.

(E)(1) The board shall certify municipal, township, and county building departments and the personnel of those building departments, and persons and employees of individuals, firms, or corporations as described in division (E)(7) of this section to exercise enforcement authority, to accept and approve plans and specifications, and to make inspections, pursuant to [sections 3781.03, 3791.04, and 4104.43 of the Revised Code](#).

(2) The board shall certify departments, personnel, and persons to enforce the state residential building code, to enforce

the nonresidential building code, or to enforce both the residential and the nonresidential building codes. Any department, personnel, or person may enforce only the type of building code for which certified.

(3) The board shall not require a building department, its personnel, or any persons that it employs to be certified for residential building code enforcement if that building department does not enforce the state residential building code. The board shall specify, in rules adopted pursuant to Chapter 119. of the Revised Code, the requirements for certification for residential and nonresidential building code enforcement, which shall be consistent with this division. The requirements for residential and nonresidential certification may differ. Except as otherwise provided in this division, the requirements shall include, but are not limited to, the satisfactory completion of an initial examination and, to remain certified, the completion of a specified number of hours of continuing building code education within each three-year period following the date of certification which shall be not less than thirty hours. The rules shall provide that continuing education credits and certification issued by the council of American building officials, national model code organizations, and agencies or entities the board recognizes are acceptable for purposes of this division. The rules shall specify requirements that are compatible, to the extent possible, with requirements the council of American building officials and national model code organizations establish.

(4) The board shall establish and collect a certification and renewal fee for building department personnel, and persons and employees of persons, firms, or corporations as described in this section, who are certified pursuant to this division.

(5) Any individual certified pursuant to this division shall complete the number of hours of continuing building code education that the board requires or, for failure to do so, forfeit certification.

(6) This division does not require or authorize the board to certify personnel of municipal, township, and county building departments, and persons and employees of persons, firms, or corporations as described in this section, whose responsibilities do not include the exercise of enforcement authority, the approval of plans and specifications, or making inspections under the state residential and nonresidential building codes.

(7) Enforcement authority for approval of plans and specifications and enforcement authority for inspections may be exercised, and plans and specifications may be approved and inspections may be made on behalf of a municipal corporation, township, or county, by any of the following who the board of building standards certifies:

(a) Officers or employees of the municipal corporation, township, or county;

(b) Persons, or employees of persons, firms, or corporations, pursuant to a contract to furnish architectural, engineering, or other services to the municipal corporation, township, or county;

(c) Officers or employees of, and persons under contract with, a municipal corporation, township, county, health district, or other political subdivision, pursuant to a contract to furnish architectural, engineering, or other services.

(8) Municipal, township, and county building departments have jurisdiction within the meaning of [sections 3781.03, 3791.04, and 4104.43 of the Revised Code](#), only with respect to the types of buildings and subject matters for which they are certified under this section.

(9) Certification shall be granted upon application by the municipal corporation, the board of township trustees, or the board of county commissioners and approval of that application by the board of building standards. The application shall set forth:

(a) Whether the certification is requested for residential or nonresidential buildings, or both;

(b) The number and qualifications of the staff composing the building department;

(c) The names, addresses, and qualifications of persons, firms, or corporations contracting to furnish work or services pursuant to division (E)(7)(b) of this section;

(d) The names of any other municipal corporation, township, county, health district, or political subdivision under contract to furnish work or services pursuant to division (E)(7) of this section;

(e) The proposed budget for the operation of the building department.

(10) The board of building standards shall adopt rules governing all of the following:

(a) The certification of building department personnel and persons and employees of persons, firms, or corporations exercising authority pursuant to division (E)(7) of this section. The rules shall disqualify any employee of the department or person who contracts for services with the department from performing services for the department when that employee or person would have to pass upon, inspect, or otherwise exercise authority over any labor, material, or equipment the employee or person furnishes for the construction, alteration, or maintenance of a building or the preparation of working drawings or specifications for work within the jurisdictional area of the department. The department shall provide other similarly qualified personnel to enforce the residential and nonresidential building codes as they pertain to that work.

(b) The minimum services to be provided by a certified building department.

(11) The board of building standards may revoke or suspend certification to enforce the residential and nonresidential building codes, on petition to the board by any person affected by that enforcement or approval of plans, or by the board on its own motion. Hearings shall be held and appeals permitted on any proceedings for certification or revocation or suspension of certification in the same manner as provided in [section 3781.101 of the Revised Code](#) for other proceedings of the board of building standards.

(12) Upon certification, and until that authority is revoked, any county or township building department shall enforce the residential and nonresidential building codes for which it is certified without regard to limitation upon the authority of boards of county commissioners under Chapter 307. of the Revised Code or boards of township trustees under Chapter 505. of the Revised Code.

(F) In addition to hearings [sections 3781.06 to 3781.18](#) and [3791.04 of the Revised Code](#) require, the board of building standards shall make investigations and tests, and require from other state departments, officers, boards, and commissions information the board considers necessary or desirable to assist it in the discharge of any duty or the exercise of any power mentioned in this section or in [sections 3781.06 to 3781.18, 3791.04, and 4104.43 of the Revised Code](#).

(G) The board shall adopt rules and establish reasonable fees for the review of all applications submitted where the applicant applies for authority to use a new material, assembly, or product of a manufacturing process. The fee shall bear some reasonable relationship to the cost of the review or testing of the materials, assembly, or products and for the notification of approval or disapproval as provided in [section 3781.12 of the Revised Code](#).

(H) The residential construction advisory committee shall provide the board with a proposal for a state residential building code that the committee recommends pursuant to [division \(C\)\(1\) of section 4740.14 of the Revised Code](#). Upon receiving a recommendation from the committee that is acceptable to the board, the board shall adopt rules establishing that code as the state residential building code.

(I) The board shall cooperate with the director of job and family services when the director promulgates rules pursuant to [section 5104.05 of the Revised Code](#) regarding safety and sanitation in type A family day-care homes.

(J) The board shall adopt rules to implement the requirements of [section 3781.108 of the Revised Code](#).

### **[3781.101 Proceedings of the board of building standards](#)**

The provisions of [sections 119.03](#) and [\[FN1\]](#) of the Revised Code in particular, and the applicable provisions of Chapter 119. of the Revised Code in general, shall govern the proceedings of the board of building standards in adopting, amending, or rescinding rules and regulations pursuant to [section 3781.10 of the Revised Code](#), and the proceedings under [sections 3781.12, 3781.13 and 3781.14 of the Revised Code](#), in addition to the procedural provisions of such sections.

In any proceedings under said sections involving the adoption, amendment or rescission of a rule or regulation the full text of the proposed rule, amendment, or rule to be rescinded shall be filed with the clerk of the board of county commissioners of each county in the same manner as provided in [subdivision \(B\) of section 119.03 of the Revised Code](#), for the filing of the same with the secretary of state.

Notwithstanding the provisions of [\[FN2\]](#) of the Revised Code, in any proceedings commenced under [section 3781.10, 3781.12, 3781.13, and 3781.14 of the Revised Code](#), the jurisdiction of the court of common pleas of Franklin county

shall not be confined to the record as certified to it by the board, but shall receive such additional evidence as it shall permit any party to offer; and the court shall not affirm the order or rule of the board unless the preponderance of the evidence before it supports the reasonableness and lawfulness of such order or rule.

[FN1] [Section 119.11](#) was repealed by 1976 H 317, eff. 9-30-76.

[FN2] [Section 119.11](#) was repealed by 1976 H 317, eff. 9-30-76.

### **3781.102 Building departments certified to inspect industrialized units; county commissioners may license specialty contractors; fees**

(A) Any county or municipal building department certified pursuant to [division \(E\) of section 3781.10 of the Revised Code](#) as of September 14, 1970, and that, as of that date, was inspecting single-family, two-family, and three-family residences, and any township building department certified pursuant to [division \(E\) of section 3781.10 of the Revised Code](#), is hereby declared to be certified to inspect single-family, two-family, and three-family residences containing industrialized units, and shall inspect the buildings or classes of buildings subject to [division \(E\) of section 3781.10 of the Revised Code](#).

(B) Each board of county commissioners may adopt, by resolution, rules establishing standards and providing for the licensing of electrical and heating, ventilating, and air conditioning contractors who are not required to hold a valid and unexpired license pursuant to Chapter 4740. of the Revised Code.

Rules adopted by a board of county commissioners pursuant to this division may be enforced within the unincorporated areas of the county and within any municipal corporation where the legislative authority of the municipal corporation has contracted with the board for the enforcement of the county rules within the municipal corporation pursuant to [section 307.15 of the Revised Code](#). The rules shall not conflict with rules adopted by the board of building standards pursuant to [section 3781.10 of the Revised Code](#) or by the department of commerce pursuant to Chapter 3703. of the Revised Code. This division does not impair or restrict the power of municipal corporations under [Section 3 of Article XVIII, Ohio Constitution](#), to adopt rules concerning the erection, construction, repair, alteration, and maintenance of buildings and structures or of establishing standards and providing for the licensing of specialty contractors pursuant to section 715. 27 of the Revised Code.

A board of county commissioners, pursuant to this division, may require all electrical contractors and heating, ventilating, and air conditioning contractors, other than those who hold a valid and unexpired license issued pursuant to Chapter 4740. of the Revised Code, to successfully complete an examination, test, or demonstration of technical skills, and may impose a fee and additional requirements for a license to engage in their respective occupations within the jurisdiction of the board's rules under this division.

(C) No board of county commissioners shall require any specialty contractor who holds a valid and unexpired license issued pursuant to Chapter 4740. of the Revised Code to successfully complete an examination, test, or demonstration of technical skills in order to engage in the type of contracting for which the license is held, within the unincorporated areas of the county and within any municipal corporation whose legislative authority has contracted with the board for

the enforcement of county regulations within the municipal corporation, pursuant to [section 307.15 of the Revised Code](#).

(D) A board may impose a fee for registration of a specialty contractor who holds a valid and unexpired license issued pursuant to Chapter 4740. of the Revised Code before that specialty contractor may engage in the type of contracting for which the license is held within the unincorporated areas of the county and within any municipal corporation whose legislative authority has contracted with the board for the enforcement of county regulations within the municipal corporation, pursuant to [section 307.15 of the Revised Code](#), provided that the fee is the same for all specialty contractors who wish to engage in that type of contracting. If a board imposes such a fee, the board immediately shall permit a specialty contractor who presents proof of holding a valid and unexpired license and pays the required fee to engage in the type of contracting for which the license is held within the unincorporated areas of the county and within any municipal corporation whose legislative authority has contracted with the board for the enforcement of county regulations within the municipal corporation, pursuant to [section 307.15 of the Revised Code](#).

(E) The political subdivision associated with each municipal, township, and county building department the board of building standards certifies pursuant to [division \(E\) of section 3781.10 of the Revised Code](#) may prescribe fees to be paid by persons, political subdivisions, or any department, agency, board, commission, or institution of the state, for the acceptance and approval of plans and specifications, and for the making of inspections, pursuant to [sections 3781.03 and 3791.04 of the Revised Code](#).

(F) Each political subdivision that prescribes fees pursuant to division (E) of this section shall collect, on behalf of the board of building standards, fees equal to the following:

(1) Three per cent of the fees the political subdivision collects in connection with nonresidential buildings;

(2) One per cent of the fees the political subdivision collects in connection with residential buildings.

(G)(1) The board shall adopt rules, in accordance with Chapter 119. of the Revised Code, specifying the manner in which the fee assessed pursuant to division (F) of this section shall be collected and remitted monthly to the board. The board shall pay the fees into the state treasury to the credit of the industrial compliance operating fund created in [section 121.084 of the Revised Code](#).

(2) All money credited to the industrial compliance operating fund under this division shall be used exclusively for the following:

(a) Operating costs of the board;

(b) Providing services, including educational programs, for the building departments that are certified by the board pursuant to [division \(E\) of section 3781.10 of the Revised Code](#);

(c) Paying the expenses of the residential construction advisory committee, including the expenses of committee members as provided in [section 4740.14 of the Revised Code](#).

(H) A board of county commissioners that adopts rules providing for the licensing of electrical and heating, ventilating, and air conditioning contractors, pursuant to division (B) of this section, may accept, for purposes of satisfying the requirements of rules adopted under that division, a valid and unexpired license issued pursuant to Chapter 4740. of the Revised Code that is held by an electrical or heating, ventilating, and air conditioning contractor, for the construction, replacement, maintenance, or repair of one-family, two-family, or three-family dwelling houses or accessory structures incidental to those dwelling houses.

(I) A board of county commissioners shall not register a specialty contractor who is required to hold a license under Chapter 4740. of the Revised Code but does not hold a valid license issued under that chapter.

(J) As used in this section, “specialty contractor” means a heating, ventilating, and air conditioning contractor, refrigeration contractor, electrical contractor, plumbing contractor, or hydronics contractor, as those contractors are described in Chapter 4740. of the Revised Code.

### **3781.103 Deadbolt locks required in apartment buildings**

The Ohio board of building standards shall adopt, pursuant to [division \(A\) of section 3781.10 of the Revised Code](#), a rule requiring that the swinging exit door for each unit in an apartment building or other multi-unit dwelling that is subject to the rules authorized by division (A) of such section be equipped with a deadbolt or equivalent security locking device complying with standards prescribed by the board. The rule shall be applied to all such apartment buildings and other multi-unit dwellings for which plans are approved pursuant to [section 3791.04 of the Revised Code](#).

### **3781.104 Smoke detection system required in certain apartment and condominium buildings**

(A) One hundred eighty days after the board of building standards files its rules with the secretary of state and the director of the legislative service commission, as required in [section 119.04 of the Revised Code](#), as required by this section, every existing apartment and condominium building that exceeds seventy-five feet in height, as measured from ground level exclusive of any radio, television, or telephone transmission antennae, or other equipment, chimneys, or equipment associated with the heating or air conditioning system of the building, which did not have an automatic smoke detection system or sprinkler system in conformity with the rules of the board of building standards adopted pursuant to [section 3781.10 of the Revised Code](#), shall have installed and in operation an automatic smoke detection system as follows:

(1) Each dwelling unit shall have smoke detector devices approved by the board and installed in the immediate vicinity but outside of all sleeping rooms. Alarm signaling devices shall be clearly audible in all bedrooms within the dwelling unit when all intervening doors are closed. For the purpose of installation and maintenance only, the applicable sections of the national fire prevention association standard No. 74 “standard for the installation, maintenance and use of a household fire warning system” shall be considered accepted engineering practice.

(2) In those portions of a building subject to this division other than dwelling units, detector spacing shall conform to at least one of the following requirements:

(a) Where the building has a central return air system, detectors shall be installed as provided by rule in or near the return air stream in a manner that smoke-laden air originating from any part of the building must pass by a detector before the smoke-laden air leaves the floor of origin;

(b) In buildings with or without central return air systems, detectors shall be installed on each floor on the corridor or lobby side of and within five feet of all stairway and elevator doors. Where horizontal exits are used, detectors shall also be installed on each side of and within fifteen feet of doors serving as horizontal exits through fire walls.

(B) As used in this section:

(1) "Smoke detector" means a readily removable device, sensitive to either visible or invisible particles of combustion or both, which automatically detects any fire condition and broadcasts locally a signal or alarm.

(2) "Apartment building" means any building at least seventy-five per cent of the units of which are residential dwelling units rented or leased to tenants upon other than a transient basis and does not include a "hotel" as that term is defined in [section 3731.01 of the Revised Code](#) but does include a college or university dormitory.

(3) "Condominium" means any building composed of individually owned units and operated by an association of owners.

(C) The board of building standards, pursuant to [section 3781.10 of the Revised Code](#), shall adopt the provisions of this section as a rule of the board.

### **3781.105 Fire protection systems; certification of designers; procedures**

(A) The board of building standards shall certify individuals who design fire protection systems for buildings and who meet the requirements specified in this section. The board may establish separate certification categories for specific types of fire protection systems.

(B) Any individual who wishes to obtain certification shall make application to the board on a form prescribed by the board. The application shall be accompanied by an application fee and an initial certification fee. The initial certification fee shall be refunded if the applicant fails to obtain certification. Certification may be renewed annually upon payment of a renewal fee.

Fees required to be paid under this division shall be established by rule adopted by the board. The application fee shall bear a reasonable relationship to processing the individual's application, the certification fee shall bear a reasonable re-

relationship to certifying the individual, and the certification renewal fee shall bear a reasonable relationship to renewing the individual's certification.

(C) Each applicant shall submit evidence satisfactory to the board that the applicant has directly engaged in designing and preparing drawings for the category of the type of fire protection system for which the applicant seeks certification.

(D) The board shall certify any qualified applicant who passes an examination prescribed either by the board or by the national institute for certification in engineering technologies. The examination shall demonstrate the applicant's knowledge and understanding of the category of the type of fire protection system for which the applicant seeks certification.

(E) The board, after a hearing in accordance with Chapter 119. of the Revised Code, may suspend or revoke any category of certification of any individual who proves at any time to be incompetent to submit and certify plans and specifications for that category to the appropriate building department under [section 3791.04 of the Revised Code](#), and may suspend or revoke all categories of certification of any individual who engages in any illegal or fraudulent acts in connection with the design of fire protection systems.

(H) [\[FN1\]](#)The board may adopt rules in accordance with Chapter 119. of the Revised Code for the administration and enforcement of this section.

[\[FN1\]](#) Division designation so in original.

### **[3781.106 Advisory committee--Repealed](#)**

### **[3781.107 Hotel to have fire warning device that produces a visible signal](#)**

Every hotel shall have available at least one operational single station automatic fire warning device approved by the fire official of jurisdiction, that produces a visible warning signal when activated by every product of combustion. The device, at the discretion of the owner, may also be activated by an early warning fire protection system. Hotels having fewer than seventy-five rooms shall have at least one warning device available for its guests. Hotels having more than seventy-five rooms shall have available for its guests, one device for every group of seventy-five rooms. Upon the request of a guest, such a device, if available, shall be installed in the guest's room.

As used in this section, "hotel" means a hotel as defined in [division \(M\) of section 5739.01 of the Revised Code](#).

### **[3781.108 Fire suppression systems](#)**

(A) Every building constructed on or after the effective date of this section with floors used for human occupancy located more than seventy-five feet in height above the lowest level of fire department vehicle access, shall have a fire

suppression system installed and in operation in conformity with the rules of the board of building standards adopted pursuant to [section 3781.10 of the Revised Code](#).

(B) As used in this section:

(1) “Fire suppression system” means a system that includes devices and equipment to detect a fire, actuate an alarm, and suppress or control a fire.

(2) “Human occupancy” does not include floors of buildings where occupancy by humans is limited to ingress, egress, and limited access for maintenance and repair.

(3) “Constructed” means either the date that the plans for a building were approved by the agency having jurisdiction pursuant to [sections 3781.12 and 3791.04 of the Revised Code](#) or the date that the permit was issued for the building, whichever occurs first.

(C) Nothing in this section shall be construed as restricting the authority of the board to adopt rules, pursuant to [section 3781.10 of the Revised Code](#), that require the installation and operation of fire suppression systems in buildings constructed on or after the effective date of this section with floors used for human occupancy located seventy-five feet in height or less above the lowest level of fire department vehicle access or as restricting the authority of the board existing before the effective date of this section to adopt or amend rules, pursuant to [section 3781.10 of the Revised Code](#), that would require the installation and operation of fire suppression systems.

### **3781.109 Rules governing number of water closets in restrooms of assembly buildings**

(A) The board of building standards shall adopt rules governing the number of water closets required to be installed in women's and men's rest room facilities in buildings or parts of buildings used for assembly purposes in accordance with the standards specified under a national model plumbing code that is consistent with rules adopted by the board pursuant to [division \(A\) of section 3781.10 of the Revised Code](#).

(B) For purposes of this section, a building or part of a building is used for assembly purposes when the use of the building or part of a building conforms to assembly usage as adopted by rule under [division \(A\) of section 3781.10 of the Revised Code](#).

### **3781.11 Board rules for residential and nonresidential buildings; violation as public nuisance**

(A) The rules of the board of building standards shall:

(1) For nonresidential buildings, provide uniform minimum standards and requirements, and for residential buildings, provide standards and requirements that are uniform throughout the state, for construction and construction materials,

including construction of industrialized units, to make residential and nonresidential buildings safe and sanitary as defined in [section 3781.06 of the Revised Code](#);

(2) Formulate such standards and requirements, so far as may be practicable, in terms of performance objectives, so as to make adequate performance for the use intended the test of acceptability;

(3) Permit, to the fullest extent feasible, the use of materials and technical methods, devices, and improvements, including the use of industrialized units which tend to reduce the cost of construction and erection without affecting minimum requirements for the health, safety, and security of the occupants or users of buildings or industrialized units and without preferential treatment of types or classes of materials or products or methods of construction;

(4) Encourage, so far as may be practicable, the standardization of construction practices, methods, equipment, material, and techniques, including methods employed to produce industrialized units;

(5) Not require any alteration or repair of any part of a school building owned by a chartered nonpublic school or a city, local, exempted village, or joint vocational school district and operated in conjunction with any primary or secondary school program that is not being altered or repaired if all of the following apply:

(a) The school building meets all of the applicable building code requirements in existence at the time of the construction of the building.

(b) The school building otherwise satisfies the requirements of [section 3781.06 of the Revised Code](#).

(c) The part of the school building altered or repaired conforms to all rules of the board existing on the date of the repair or alteration.

(6) Not require any alteration or repair to any part of a workshop or factory that is not otherwise being altered, repaired, or added to if all of the following apply:

(a) The workshop or factory otherwise satisfies the requirements of [section 3781.06 of the Revised Code](#).

(b) The part of the workshop or factory altered, repaired, or added conforms to all rules of the board existing on the date of plan approval of the repair, alteration, or addition.

(B) The rules of the board shall supersede and govern any order, standard, or rule of the division of industrial compliance in the department of commerce, division of the fire marshal, the department of health, and of counties and townships, in all cases where such orders, standards, or rules are in conflict with the rules of the board, except that rules adopted and orders issued by the fire marshal pursuant to Chapter 3743. of the Revised Code prevail in the event of a conflict.

(C) The construction, alteration, erection, and repair of buildings including industrialized units, and the materials and devices of any kind used in connection with them and the heating and ventilating of them and the plumbing and electric wiring in them shall conform to the statutes of this state or the rules adopted and promulgated by the board, and to provisions of local ordinances not inconsistent therewith. Any building, structure, or part thereof, constructed, erected, altered, manufactured, or repaired not in accordance with the statutes of this state or with the rules of the board, and any building, structure, or part thereof in which there is installed, altered, or repaired any fixture, device, and material, or plumbing, heating, or ventilating system, or electric wiring not in accordance with such statutes or rules is a public nuisance.

(D) As used in this section:

(1) "Nonpublic school" means a chartered school for which minimum standards are prescribed by the state board of education pursuant to [division \(D\) of section 3301.07 of the Revised Code](#).

(2) "Workshop or factory" includes manufacturing, mechanical, electrical, mercantile, art, and laundering establishments, printing, telegraph, and telephone offices, railroad depots, and memorial buildings, but does not include hotels and tenement and apartment houses.

### **[3781.111 Regulations to facilitate access and use of buildings by disabled persons; special parking locations for disabled to be marked \(later effective date\)](#)**

< Note: See also version(s) of this section with earlier effective date(s).>

(A) In addition to the powers conferred by any other section of the Revised Code, the board of building standards shall adopt standards and rules to facilitate the reasonable access and use by all persons with a disability of all buildings and the facilities of buildings for which plans are submitted for approval under [section 3791.04 of the Revised Code](#). No standard or rule shall be applied to any building the plans or drawings, specifications, and date of which have been approved prior to the time that the standard or rule takes effect.

(B)(1) Except as otherwise provided in this section, the standards and rules adopted by the board pursuant to this section shall be in accordance with the "Americans with Disabilities Act of 1990," 104 Stat. 327, [42 U.S.C.A. 12101](#), as amended, and the "Fair Housing Amendments Act of 1988," 102 Stat. 1619, [42 U.S.C.A. 3601](#), as amended.

(2) For purposes of enforcement by the Ohio civil rights commission only, approval of a plan as required under [section 3791.04 of the Revised Code](#) creates a rebuttable presumption that the plans, drawings, specifications, or data submitted are in compliance with the rules adopted by the board pursuant to this section as they relate to accessibility.

(C) All signs posted to designate special parking locations for persons with a disability and persons with disabilities that limit or impair the ability to walk in accordance with [division \(E\) of section 4511.69 of the Revised Code](#) and the standards and rules adopted pursuant to this section shall be mounted on a fixed or movable post or otherwise affixed

in a vertical position at a height so that the sign is clearly visible to the driver of a vehicle when parked in such a location. If a new sign or a replacement sign designating a special parking location is posted on or after October 14, 1999, there also shall be affixed upon the surface of that sign or affixed next to the designating sign a notice that states the fine applicable for the offense of parking a motor vehicle in the special designated parking location if the motor vehicle is not legally entitled to be parked in that location.

(D) As used in this section, “disability” has the same meaning as in [section 4112.01 of the Revised Code](#). As used in division (C) of this section, “persons with disabilities that limit or impair the ability to walk” has the same meaning as in [division \(A\)\(1\) of section 4503.44 of the Revised Code](#).

(E) No owner of a building or facility where special parking locations for persons with a disability must be designated in accordance with the standards and rules adopted pursuant to this section shall fail to properly mark the special parking locations as required by those standards and rules or fail to maintain the markings of the special parking locations, including the erection and maintenance of the fixed or movable signs.

(F) The board annually shall provide statewide training on the rules adopted by the board pursuant to this section as they relate to accessibility for nonresidential building department personnel certified by the board who approve, review plans, and inspect nonresidential construction.

### **3781.112 Denial of egress to patients or residents of secured facility**

(A) As used in this section, “secured facility” means any of the following:

- (1) A maternity boardinghouse or lying-in hospital licensed under [section 3711.02 of the Revised Code](#);
- (2) A pediatric intensive care unit subject to rules adopted by the director of health pursuant to [section 3702.11 of the Revised Code](#);
- (3) A children's hospital, as defined in [section 3702.51 of the Revised Code](#);
- (4) A hospital that is licensed under [section 5119.20 of the Revised Code](#) to receive mentally ill persons;
- (5) The portion of a nursing home licensed under [section 3721.02 of the Revised Code](#) or in accordance with [section 3721.09 of the Revised Code](#) in which specialized care is provided to residents of the nursing home who have physical or mental conditions that require a resident to be restricted in the resident's freedom of movement for the health and safety of the resident, the staff attending the resident, or the general public.

(B) A secured facility may take reasonable steps in accordance with rules the board of building standards adopts under [division \(A\) of section 3781.10 of the Revised Code](#) and in accordance with the state fire code the fire marshal adopts

under [section 3737.82 of the Revised Code](#), to deny egress to confine and protect patients or residents of the secured facility who are not capable of self-preservation. A secured facility that wishes to deny egress to those patients or residents may use delayed-egress doors and electronically coded doors to deny egress, on the condition that those doors are installed and used in accordance with rules the board of building standards adopts under [division \(A\) of section 3781.10 of the Revised Code](#) and in accordance with the state fire code the fire marshal adopts under [section 3737.82 of the Revised Code](#). A secured facility also may install controlled-egress locks, in compliance with rules the board of building standards adopts under [division \(A\) section 3781.10 of the Revised Code](#) and in compliance with the state fire code the fire marshal adopts under [section 3737.82 of the Revised Code](#), in areas of the secured facility where patients or residents who have physical or mental conditions that would endanger the patients or residents, the staff attending the patients or residents, or the general public if those patients or residents are not restricted in their freedom of movement. A secured facility that uses delayed-egress doors and electronically coded doors, controlled-egress locks, or both, shall do both of the following:

- (1) Provide continuous, twenty-four-hour custodial care to the patients or residents of the facility;
- (2) Establish a system to evacuate patients or residents in the event of fire or other emergency.

#### **3781.12 Petition for change of rules or regulations**

(A) Any person may petition the board of building standards to adopt, amend, or annul a rule adopted pursuant to [section 3781.10 of the Revised Code](#), or to permit the use of any particular fixture, device, material, system, method of manufacture, product of a manufacturing process, or method or manner of construction or installation that complies with performance standards adopted pursuant to [section 3781.11 of the Revised Code](#), as regards the purposes declared in [section 3781.06 of the Revised Code](#), of the fixtures, devices, materials, systems, or methods or manners of construction, manufacture or installation described in any section of the Revised Code relating to those purposes, where the use is permitted by law.

(B) Upon petition, the board shall cause to be conducted testing and evaluation that the board determines desirable of any fixture, device, material, system, assembly or product of a manufacturing process, or method or manner of construction or installation sought to be used under the rules the board adopts pursuant to [section 3781.10 of the Revised Code](#).

(C) If the board, after hearing, determines it advisable to adopt the rule, amendment, or annulment, or to permit the use of the materials or assemblages petitioned for, it shall give at least thirty days' notice of the time and place of a public hearing as provided by [section 119.03 of the Revised Code](#). No rule shall be adopted, amended, or annulled or the use of materials or assemblages authorized until after the public hearing. A copy of every rule, amendment, or annulment, and a copy of every approved material or assembly authorization signed by the chairperson of the board of building standards and sealed with the seal of the department of commerce shall, after final adoption or authorization by the board, be filed with the secretary of state and published as the board determines. The issuance of the authorization for the use of the materials or assemblages described in the petition constitutes approval for their use anywhere in this state. Any rule, amendment, or annulment does not take effect until a date the board fixes and states. No rule, amendment, or annulment applies to any building for which the plans or drawings, specifications, and data were approved

prior to the time the rule, amendment, or annulment becomes effective. All hearings of the board are open to the public. Each member of the board may administer oaths in the performance of the member's duties.

### **3781.13 Minimum standards for nonresidential buildings prescribed by certain descriptions**

Any person interested, either because of ownership or occupation of any property affected by any rule described in [section 3781.12 of the Revised Code](#), or as the producer, manufacturer, seller, or distributor, of any building material, industrialized unit, plumbing, heating, or ventilating system or device, or any other device, product, assembly, or equipment, the use of which is not provided for by any rule, may petition for a hearing on the reasonableness and lawfulness of any action of the board of building standards, adopting, amending, or annulling or refusing to adopt, amend, or annul the rule, in the manner provided in [sections 3781.06 to 3781.18](#) and [section 3791.04 of the Revised Code](#). Any petition for hearing shall be by verified petition filed with the board and shall set out specifically and in full detail the action of the board upon which a hearing is desired, the reason why that action is unreasonable or unlawful, and every issue the board should consider on the hearing. The petition shall be filed within thirty days after the record of the action of the board is filed in the office of the secretary of state, in cases where the record is required to be filed with the secretary of state; otherwise the petition shall be filed within thirty days after the action is taken. Upon receipt of the petition, after a hearing held within thirty days after the receipt of the petition and after notice has been given to the petitioner, the board may determine that the action is unreasonable or unlawful and annul any rule, confirm its prior action, or re-enact or amend any rule in the manner provided in [section 3781.12 of the Revised Code](#). If the board does not determine the matter within two weeks after the hearing, the action may, at the option of the petitioner, be deemed to have been confirmed.

### **3781.14 Court action against board of building standards**

Any person in interest mentioned in [section 3781.13 of the Revised Code](#) who is dissatisfied with any action of the board of building standards adopted and confirmed by determination of the board as provided in said section, may commence an action in the court of common pleas of Franklin county against the board as defendant to set aside, vacate, or amend any such provision on the ground that the provision is unreasonable or unlawful and the said court is hereby authorized and vested with exclusive jurisdiction to hear and determine such action. The board shall be served with summons as in other civil cases. The answer of the board shall be filed within ten days after service of summons upon it, and with its answer it shall file a certified transcript of its record in said matter. Upon the filing of said answer said action shall be at issue and shall be advanced and assigned for trial by the court, upon the application of either party, at the earliest possible date.

### **3781.15 Injunction proceedings**

The construction, use, or occupation of any building which is declared by [sections 3781.06 to 3781.18](#), inclusive, [section 3781.031](#), and [section 3791.04 of the Revised Code](#), to be a public nuisance may be enjoined in a proceeding instituted in the name of any department or officer mentioned in [section 3781.03 of the Revised Code](#) in the court of common pleas of the county in which said building is or will be situated.

### **3781.16 Construction**

Sections 3781.06 to 3781.18 and section 3791.04 of the Revised Code do not limit any of the powers of the public utilities commission, the bureau of workers' compensation, or the department of commerce, or the division of fire marshal, except as specifically provided in those sections, nor exempt any officer or department from the obligation of enforcing all laws. Those sections do not limit any of the powers conferred upon municipal corporations by the constitution or the laws of this state.

### **3781.17 Assistance to board of building standards**

The board of building standards may require the department of commerce to make such investigations, reports, and tests and submit such information as it deems necessary to assist it in the determination of any question coming before it, and may utilize for such purpose the services of the engineering experiment station at the Ohio state university.

### **3781.18 Minimum standards for nonresidential buildings prescribed by certain descriptions**

Wherever Chapters 3781. and 3791. of the Revised Code or the rules adopted pursuant to those chapters describe particular fixtures, devices, materials, systems, method of manufacture, product of a manufacturing process, or methods or manners of construction or installation pertaining to nonresidential buildings, those descriptions prescribe minimum standards of safety and sanitary conditions that a particular fixture, device, material, system, method of manufacture, product of a manufacturing process, or method or manner of construction or installation exemplifies. The use of another fixture, device, material, system, industrialized unit, newly designed product, or method, or manner of construction or installation that is at variance with the descriptions is permissible if the fixture, device, material, system, manufactured component or unit, product, method, or manner of construction complies with performance standards as the board determines.

### **3781.181 Energy conservation rules--Repealed**

### **3781.182 Offense--Repealed**

### **3781.183 Adult care facilities**

If the board of building standards adopts rules under sections 3781.06 to 3781.18 of the Revised Code concerning the requirements an adult group home seeking licensure as an adult care facility must meet under section 3722.02 of the Revised Code, the board shall adopt the rules in consultation with the directors of health and of aging and any interested party designated by the directors of health and of aging.

### **3781.184 Manufactured home construction standards**

(A) Every manufactured home, as defined in division (C)(4) of section 3781.06 of the Revised Code, shall be construc-

ted in accordance with the federal construction and safety standards established by the secretary of housing and urban development pursuant to the “Manufactured Housing Construction and Safety Standards Act of 1974,” 88 Stat. 700, [42 U.S.C.A. 5401, 5403](#). The federal standards shall be the exclusive construction and safety standards in this state and neither the state nor any political subdivision of the state may establish any other standard governing the construction of manufactured homes.

(B) Every manufactured home constructed in accordance with the federal standards specified in division (A) of this section, shall have a permanent label or tag affixed to it, as specified in [42 U.S.C.A. 5415](#), certifying compliance with the federal construction and safety standards.

(C)(1) Every manufactured home that is constructed in accordance with the federal standards specified in division (A) of this section and is a permanently sited manufactured home as defined in [division \(C\)\(6\) of section 3781.06 of the Revised Code](#) shall be a permitted use in any district or zone in which a political subdivision permits single-family homes, and no political subdivision may prohibit or restrict the location of a permanently sited manufactured home in any zone or district in which a single-family home is permitted.

(2) This division does not limit the authority of a political subdivision to do either of the following:

(a) Require that a permanently sited manufactured home comply with all zoning requirements that are uniformly imposed on all single-family residences within the district or zone in which the permanently sited manufactured home is or is to be located, except requirements that specify a minimum roof pitch and requirements that do not comply with the standards established pursuant to the “Manufactured Housing Construction and Safety Standards Act of 1974,” 88 Stat. 700, [42 U.S.C.A. 5401](#);

(b) Prohibit from any residential district or zone, travel trailers, park trailers, and mobile homes, as these terms are defined in [section 4501.01 of the Revised Code](#), and manufactured homes that do not qualify as permanently sited manufactured homes.

(D) This section does not prohibit a private landowner from incorporating a restrictive covenant in a deed, prohibiting the inclusion on the conveyed land of manufactured homes, as defined in division (C)(4) or (6) of [section 3781.06 of the Revised Code](#), or of travel trailers, park trailers, and mobile homes, as defined in [section 4501.01 of the Revised Code](#). This division does not create a new cause of action or substantive legal right for a private landowner to incorporate such a restrictive covenant in a deed.

### **[3781.19 Board of building appeals; members; adjudication hearings; de novo hearing or appeals to court of common pleas; variances and exemptions](#)**

There is hereby established in the department of commerce a board of building appeals consisting of five members who shall be appointed by the governor with the advice and consent of the senate. Terms of office shall be for four years, commencing on the fourteenth day of October and ending on the thirteenth day of October. Each member shall hold office from the date of appointment until the end of the term for which the member was appointed. Any member

appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of such term. Any member shall continue in office subsequent to the expiration date of the member's term until a successor takes office, or until a period of sixty days has elapsed, whichever occurs first. One member shall be an attorney-at-law, admitted to the bar of this state and of the remaining members, one shall be a registered architect and one shall be a professional engineer, each of whom shall be duly licensed to practice their respective professions in this state, one shall be a fire prevention officer qualified under [section 3737.66 of the Revised Code](#), and one shall be a person with recognized ability in the plumbing or pipefitting profession. No member of the board of building standards shall be a member of the board of building appeals. Each member shall be paid an amount fixed pursuant to Chapter 124. of the Revised Code per diem. The department shall provide and assign to the board such employees as are required by the board to perform its functions. The board may adopt its own rules of procedure not inconsistent with [sections 3781.06 to 3781.18 and 3791.04 of the Revised Code](#), and may change them in its discretion. The board may establish reasonable fees, based on actual costs for administration of filing and processing, not to exceed two hundred dollars, for the costs of filing and processing appeals. A full and complete record of all proceedings of the board shall be kept and be open to public inspection.

In the enforcement by any department of the state or any political subdivision of this chapter and Chapter 3791., and sections 3737.41, 3737.42, 4104.02, 4104.06, 4104.43, 4104.44, 4104.45, 4105.011, and 4105.11 of the Revised Code and any rule made thereunder, such department is the agency referred to in [sections 119.07, 119.08, and 119.10 of the Revised Code](#).

The appropriate municipal or county board of appeals, where one exists, certified pursuant to [section 3781.20 of the Revised Code](#) shall conduct the adjudication hearing referred to in sections 119.09 to 119.13 and required by [section 3781.031 of the Revised Code](#). If there is no certified municipal or county board of appeals, the board of building appeals shall conduct the adjudication hearing. If the adjudication hearing concerns [section 3781.111 of the Revised Code](#) or any rule made thereunder, reasonable notice of the time, date, place, and subject of the hearing shall be given to any local corporation, association, or other organization composed of or representing handicapped persons, as defined in [section 3781.111 of the Revised Code](#), or if there is no local organization, then to any statewide corporation, association, or other organization composed of or representing handicapped persons.

In addition to the provisions of Chapter 119. of the Revised Code, the municipal, county, or state board of building appeals, as the agency conducting the adjudication hearing, may reverse or modify the order of the enforcing agency if it finds that the order is contrary to this chapter and Chapters 3791. and 4104., and [sections 3737.41, 3737.42, 4105.011 and 4105.11 of the Revised Code](#) and any rule made thereunder or to a fair interpretation or application of such laws or any rule made thereunder, or that a variance from the provisions of such laws or any rule made thereunder, in the specific case, will not be contrary to the public interest where a literal enforcement of such provisions will result in unnecessary hardship.

The state board of building appeals or a certified municipal or county board of appeals shall render its decision within thirty days after the date of the adjudication hearing. Following the adjudication hearing, any municipal or county officer, official municipal or county board, or person who was a party to the hearing before the municipal or county board of appeals may apply to the state board of appeals for a de novo hearing before the state board, or may appeal directly to the court of common pleas pursuant to [section 3781.031 of the Revised Code](#).

In addition, any local corporation, association, or other organization composed of or representing handicapped persons as defined in [section 3781.111 of the Revised Code](#), or, if no local corporation, association, or organization exists, then any statewide corporation, association, or other organization composed of or representing handicapped persons may apply for the de novo hearing or appeal to the court of common pleas from any decision of a certified municipal or county board of appeals interpreting, applying, or granting a variance from [section 3781.111 of the Revised Code](#) and any rule made thereunder. Application for a de novo hearing before the state board shall be made no later than thirty days after the municipal or county board renders its decision.

The state board of building appeals or the appropriate certified local board of building appeals shall grant variances and exemptions from the requirements of [section 3781.108 of the Revised Code](#) in accordance with rules adopted by the board of building standards pursuant to [division \(J\) of section 3781.10 of the Revised Code](#).

The state board of building appeals or the appropriate certified local board of building appeals shall, in granting a variance or exemption from [section 3781.108 of the Revised Code](#), in addition to any other considerations the state or the appropriate local board determines appropriate, consider the architectural and historical significance of the building.

### **3781.191 Limitations on authority**

The Ohio board of building appeals has no authority to hear any case based on the Ohio residential building code or to grant any variance to the Ohio residential building code.

### **3781.20 Certification of boards of building appeals; jurisdiction; membership**

(A) The board of building standards may certify municipal and county boards of building appeals to hear and decide appeals from adjudication orders pertaining to the enforcement of this chapter and Chapter 3791. of the Revised Code and any rules adopted pursuant thereto. Any board of appeals that has been certified by the board of building standards may contract with any municipal corporation or county certified to enforce this chapter and Chapter 3791. of the Revised Code to provide for appeals from adjudication orders arising from the certified municipal corporation or county.

(B) A certified local board of building appeals has exclusive jurisdiction to hear and decide all adjudication hearings arising from rulings of the local chief enforcement official concerning the provisions of this chapter and Chapter 3791. of the Revised Code and any rules adopted pursuant thereto. The local board may establish reasonable fees, based on actual costs for administration of filing and processing, not to exceed one hundred dollars, for the costs of filing and processing appeals and shall keep a full and complete record of all of its proceedings; these records shall be open to public inspection.

(C) The local board of building appeals shall consist of five members, except that a municipal board may consist of more than five members if so provided by the charter of the municipal corporation, or any amendment to the charter, adopted prior to October 13, 1983. One member shall be an attorney at law admitted to the bar of this state, one shall be a registered architect, one shall be a registered professional engineer, specializing in structural engineering, and one shall be a registered professional engineer specializing in mechanical engineering, except that a municipal board need

not have an attorney as a member if no attorney member is required by the charter of the municipal corporation, or any amendment to the charter, adopted prior to October 13, 1983. Each of these four members shall be licensed to practice his profession in this state, and shall be a person of recognized ability and broad training who is experienced in problems and practice incidental to the construction and equipment of buildings and structures. One member shall be a representative of organized labor who is knowledgeable as to the construction and equipment of buildings and structures.

Members shall be appointed for five-year terms, except that original appointments shall be for terms of one, two, three, four, and five years. Each member shall hold office from the date of appointment until the end of the term for which he is appointed. Any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall hold office for the remainder of that term. Any member shall continue in office subsequent to the expiration date of his term until his successor takes office or until sixty days have elapsed, whichever occurs first.

(D) Certification shall be upon application by the county or municipal corporation to the board of building standards. The application shall set forth both of the following:

(1) The resolution, ordinance, or charter provision establishing the local board of appeals and making or providing for the making of appointments to the board;

(2) The dates of appointments, terms of the board members, and professional requirements and experience necessary for membership.

(E) Upon reviewing the application, the board of building standards shall certify the local board if it finds all of the following:

(1) The applicant political subdivision has a building department that is certified pursuant to [section 3781.10 of the Revised Code](#) and such certification is not through a contract with another political subdivision;

(2) The local board is established pursuant to local resolution, ordinance, or municipal charter;

(3) The local board's membership meets the requirements of this section.

The board of building standards shall certify county and municipal boards of building appeals in accordance with Chapter 119. of the Revised Code and shall schedule a hearing on an application within sixty days after receiving the application.

A certification may be revoked on petition to the board of building standards by any person affected by the local board of building appeals, or by the board of building standards on its own motion. Hearings shall be held and appeals permitted, on any proceedings for revocation of certification, in accordance with Chapter 119. of the Revised Code.

(F) Local boards of appeals certified pursuant to this section have the same powers to reverse or modify orders of the local enforcement official and to grant variances as are conferred on the board of building appeals by [section 3781.19 of the Revised Code](#) including variances and exemptions from the requirements of [section 3781.108 of the Revised Code](#).

Nothing in this section shall be construed to grant to a municipal or county board of building appeals any authority to prohibit the use of materials or assemblages that have been licensed for statewide use pursuant to [section 3781.12 of the Revised Code](#).

### **3781.21 Thermal efficiency standards--Repealed**

### **3781.25 Definitions**

As used in sections 3781.25 to [3781.32 of the Revised Code](#):

(A) “Protection service” means a notification center, but not an owner of an individual utility, that exists for the purpose of receiving notice from persons that prepare plans and specifications for or that engage in excavation work, that distributes this information to its members and participants, and that is registered with the secretary of state and the public utilities commission of Ohio under [division \(F\) of section 153.64 of the Revised Code](#) on March 14, 1989.

(B) “Underground utility facility” means any item buried or placed below the surface of the earth or submerged under water for use in connection with the storage or conveyance of water or sewage; electronic, telephonic, or telegraphic communications; television signals; electricity; crude oil; petroleum products; artificial or liquefied petroleum; natural gas; coal; steam; hot water; or other substances; except that it does not include private septic systems in a one-family or two-family dwelling not connected to any other system.

(C) “Utility” means any owner of an underground utility facility, including any public authority as defined in [section 153.64 of the Revised Code](#), that owns an underground utility facility, except the owners of the following types of real property with respect to any underground utility facility located on that property:

- (1) The owner of a single-family or two-, three-, or four-unit residential dwelling;
- (2) The owner of an apartment complex;
- (3) The owner of a commercial or industrial building or complex of buildings, including but not limited to, factories and shopping centers;
- (4) The owner of a farm.

(D) “Approximate location” means the site of the underground utility facility including the width of the underground utility facility plus eighteen inches on each side of the facility.

(E) “Days” excludes Saturdays, Sundays, and legal holidays as defined in [section 1.14 of the Revised Code](#) and “hours” excludes hours on Saturdays, Sundays, and legal holidays.

(F) “Designer” means an engineer, architect, landscape architect, contractor, or other person who develops plans or designs for real property improvement or any other activity that will involve excavation.

(G) “Developer” means the person for whom the excavation is made and who will own or be the lessee of any improvement that is the object of the excavation.

(H) “Excavation” means the use of tools, powered equipment, or explosives to move earth, rock, or other materials in order to penetrate or bore or drill into the earth, or to demolish any structure whether or not it is intended that the demolition will disturb the earth. “Excavation” includes such agricultural operations as the installation of drain tile, but excludes agricultural operations such as tilling that do not penetrate the earth to a depth of more than twelve inches. “Excavation” excludes any activity by a governmental entity which does not penetrate the earth to a depth of more than twelve inches. “Excavation” excludes any underground mining operations that do not involve disturbance to the earth’s surface.

(I) “Excavation site” means the area within which excavation will be performed.

(J) “Excavator” means the contractor or other person who is responsible for making the excavation.

(K) “Interstate gas pipeline” means an interstate gas pipeline subject to the “Natural Gas Pipeline Safety Act of 1968,” 82 Stat. 720, 49 U.S.C. 1671, as amended.

(L) “Interstate hazardous liquids pipeline” means an interstate hazardous liquids pipeline subject to the “Hazardous Liquid Pipeline Safety Act of 1979,” 93 Stat. 1003, 49 U.S.C. 2002, as amended.

(M) “Special notification requirements” means requirements for notice to an owner of an interstate hazardous liquids pipeline or an interstate gas pipeline that must be made prior to commencing excavation and pursuant to the owner’s public safety program adopted under federal law.

### **3781.26 Protection service**

(A) Each utility that owns or operates underground utility facilities shall participate in and register the location of its underground utility facilities with a protection service that serves the area where the facilities are located. A utility may elect to participate in the service on a limited basis and if it does so, it shall register the location of its under-

ground utility facilities only by identifying the municipal corporations, and outside the limits of a municipal corporation, the townships by county in which it has facilities. The service shall establish reasonable fees for limited basis participants.

(B) Protection services, utilities, excavators, excavation equipment dealers, the public utilities commission of Ohio, the board of building standards, local law enforcement agencies, and fire departments should publicize the importance of ascertaining the location of underground utility facilities before excavating and the use of protection services to ascertain that information.

(C) A protection service shall maintain records of notifications received from developers, designers, and excavators, and of its notifications made to utilities, developers, designers, and excavators, under [sections 3781.27 and 3781.28 of the Revised Code](#). The records of a protection service shall identify by reference number, the notifications it received regarding a proposed excavation site, the notifications it provided regarding a proposed excavation site, and the date and time of each notification.

#### **3781.27 Excavations; notification by developer**

Sections 3781.27 to 3781.32 do not apply to “public improvements” as defined in [section 153.64 of the Revised Code](#).

(A) In order to ascertain the name of each utility with underground utility facilities located at the proposed excavation site and the types and approximate location of those facilities based on records of the utility, any developer who is planning a project that will require excavation shall notify the protection service of the location of the proposed excavation site.

(B) Except in the case of limited basis participants, the protection service shall provide notice of the proposed excavation to each participant in the service that has underground utility facilities in the area of the proposed excavation site. In the case of limited basis participants, the protection service shall notify the developer of the name of each limited basis participant with underground utility facilities within the municipal corporation or township and county of the proposed excavation site, and the developer shall contact that utility.

(C) Each utility that has any underground utility facilities in the area of the proposed excavation site shall notify the developer of the approximate locations and description of the utility's underground utility facilities located at the proposed excavation site, or that the utility does not have any underground utility facilities at the site. The utility shall make this notification within ten days of receiving a notice under division (B) of this section or by a later date acceptable to the developer and utility. In the case of an interstate hazardous liquid pipeline or an interstate gas pipeline, the utility also shall provide written notice to the developer of any special notification requirements.

(D) The utility shall determine if any relocation, support, or removal, or protective steps beyond those described in divisions (A) to (D) of [section 3781.30 of the Revised Code](#) are required in order to prevent disturbance or interference with the underground utility facilities during excavation. The utility shall determine whether it will permit the developer to make those adjustments, and, if the adjustments are to be made by the utility, a reasonable amount of time

necessary to make those adjustments.

(E)(1) Based on the information provided pursuant to division (C) of this section, the developer shall indicate the approximate locations of underground utility facilities either on or with the plans prepared for the project. The developer shall include with the plans the names, addresses, and telephone numbers of utilities with underground facilities at the excavation site, indicating which utilities are limited basis participants; the name and telephone number of the protection service; and any required adjustments as described in division (D) of this section, including the reasonable time necessary for the utility to make those adjustments. In the case of an interstate hazardous liquid pipeline or an interstate gas pipeline, the developer also shall include any special notification requirements.

(2) (a) Except as otherwise provided in division (E)(2)(b) of this section, the developer shall provide the plans to the excavator before excavation begins. If the developer does not prepare written plans or have any written plans prepared, he shall otherwise provide the approximate locations, identifying information on the utilities, information on required adjustments, and any special notification requirements to the excavator before excavation begins.

(b) When the developer is a utility, he shall provide either the plans or the approximate locations, identifying information on the utilities, information on required adjustments, and any special notification requirements to the excavator before excavation begins.

(3) The developer shall design the project taking into account the approximate location of existing underground utility facilities in order to prevent, as far as is practicable, disturbance or interference with those facilities.

(4) When a project includes installation of new underground utility facilities, the developer shall attempt to design the installation so that at least a twelve-inch clearance is provided between the facilities. No facility shall be installed with less than a twelve-inch clearance unless the owners of existing facilities are notified prior to installation.

(F)(1) This section does not apply in the case of a utility making emergency repair to its own underground utility facility.

(2) This section does not apply in the case of the owner of the types of real property identified in divisions (C)(1) to (4) of section 3781.25 of the Revised Code, unless the owner employs a designer to make written plans for work that will involve excavation. If the owner employs a designer, the designer shall contact the utility protection service and utilities that are limited basis participants in accordance with divisions (A) and (B) of this section, and shall include in or with the plans the information required under division (E) of this section. The owner shall provide that information to the excavator.

### **3781.28 Excavations; notification by excavator**

(A) Except as otherwise provided in divisions (C), (D), (E), and (F) of this section, at least forty-eight hours but not more than ten days before commencing excavation, the excavator shall notify the protection service of the location of

the excavation site and the date on which excavation is planned to commence.

(B) On receipt of notice under division (A) of this section, the service shall provide to each utility with underground utility facilities located at the excavation site, notice of the proposed excavation, except that in the case of a limited basis participant in the service, the service shall notify the excavator of the name of each limited basis participant with underground utility facilities located in the municipal corporation or township and county of the proposed excavation site, and the excavator shall notify the limited basis participant of the proposed excavation at least forty-eight hours but not more than ten days before commencing excavation. The excavator may make this notification by telephone.

(C) In the case of an interstate hazardous liquids pipeline or interstate gas pipeline, the excavator shall comply with the special notice requirements of the public safety program of the owner of the pipeline as indicated in the plans or otherwise provided to the excavator in accordance with division (E) or (F)(2) of section 3781.27 of the Revised Code.

(D) If it has been determined pursuant to division (D) of section 3781.27 of the Revised Code that relocation, support, removal, or protective steps are necessary, the excavator shall provide earlier notice to the utility in order to provide the utility with reasonable time to coordinate making the adjustments with actual excavation.

(E) If an excavation will cover a large area and will progress from one area to the next over a period of time, the excavator shall provide notice of excavation for segments of the excavation as the excavation progresses in order to coordinate the marking of approximate locations with actual excavation.

(F)(1) In the case of a utility that is making an emergency repair to its own underground utility system or a governmental entity making an underground emergency repair to traffic control devices, as defined in section 4511.01 of the Revised Code, used on any street or highway under the entity's jurisdiction, the utility or governmental entity shall notify the protection service and each limited basis participant of the excavation site. This notice need not occur before commencing excavation.

(2) In the case of an excavation at the site of real property of the type described in divisions (C)(1) to (4) of section 3781.25 of the Revised Code:

(a) If the owner of the property is the excavator, this section does not apply unless the excavation is planned for an area where a utility easement is located or a public right-of-way;

(b) If the owner of the property employs an excavator, the excavator shall comply with the requirements of this section. If the owner did not employ a designer to make written plans, the excavator shall provide the notice required under this section to the protection service and to each utility that is a limited basis participant in the protection service that has underground utility facilities within the municipal corporation or township and county of the excavation site, as indicated by the protection service.

### **3781.29 Marking of excavation sites; duties of utility**

(A)(1) Except as otherwise provided in division (A)(2) of this section, within forty-eight hours of receiving notice under [section 3781.28 of the Revised Code](#), each utility shall locate and mark the approximate location of its underground utility facilities at the excavation site. If a utility does not mark its underground utility facilities or contact the excavator within forty-eight hours of receiving notice under [section 3781.28 of the Revised Code](#), the utility is deemed to have given notice that it does not have any facilities at the excavation site. If the utility cannot accurately mark the approximate location, the utility shall mark the approximate location to the best of its ability, notify the excavator that the markings may not be accurate, and provide additional guidance to the excavator in locating the facilities as needed during the excavation.

(2) In the case of an interstate hazardous liquids pipeline or an interstate gas pipeline, the owner of the pipeline shall locate and mark the approximate location of its pipeline within the time frame established in the public safety program of the owner.

(B) Unless a facility actually is uncovered or probed by the utility, any indications of the depth of the facility shall be treated as estimates.

(C) A utility shall mark the approximate location of its underground facilities using the following color codes:

Type of Underground Utility Facility	Color
Electric power transmission and distribution	Safety red
Gas transmission and distribution	High visibility safety yellow
Oil transmission and distribution	High visibility safety yellow
Dangerous materials, product lines, and steam lines	High visibility safety yellow
Telephone and telegraph systems	Safety alert orange
Police and fire communications	Safety alert orange
Cable television	Safety alert orange
Water systems	Safety precaution blue
Slurry systems	Safety precaution blue
Sewer lines	Safety green.

(D) Proposed construction or excavation markings shall be made in white.

### **3781.30 Duties of excavator**

When making excavations, the excavator shall do all of the following:

(A) Maintain reasonable clearance between any underground facility and the cutting edge or point of powered equipment;

- (B) Protect and preserve the markings of approximate locations of underground utility facilities until those markings are no longer required for proper and safe excavations;
- (C) When approaching underground utility facilities while excavating with powered equipment, require an individual other than the equipment operator, to look for any sign of the underground utility facility;
- (D) Conduct the excavation in the vicinity of the underground utility facility in a careful and prudent manner, excavating by hand, if necessary, to determine the precise location of the facility and to prevent damage;
- (E) As soon as any damage is discovered, including gouges, dents, or breaks to coatings, cable sheathes, and cathodic protection anodes or wiring, report the type and location of the damage to the utility and permit the utility a reasonable amount of time to make necessary repairs;
- (F) Immediately report to the utility and, if necessary, to the appropriate law enforcement agencies and fire departments, any damage to an underground utility facility that results in escaping flammable, corrosive, explosive, or toxic liquids or gas, and take reasonable appropriate actions needed to protect persons and property and to minimize safety hazards until those agencies and departments and the utility arrive at the scene.

#### **3781.31 Markings of excavation sites; prior notice; procedure upon destruction or removal**

- (A) When a utility marks the approximate location of its underground utility facilities in accordance with [division \(A\) of section 3781.29 of the Revised Code](#), the utility may request that the excavator provide prior notice to the utility of the actual commencement of the excavation. An excavator that receives a request for notice under this division shall provide the notice to the utility at least twenty-four hours prior to the commencement of excavation. The excavator may make this notice by telephone.
- (B) If the markings of approximate locations made under [section 3781.29 of the Revised Code](#) are destroyed or removed before excavation is completed, the excavator shall notify the utility that the markings have been destroyed or removed, and the utility shall remark the approximate locations within forty-eight hours of the notice.

#### **3781.32 Permit requirements applicable; duties non-delegable; facilities not required to be relocated**

- (A) Any connections or tie-ins to existing utility services within a public right-of-way shall comply with permit requirements of the public agency that has jurisdiction over that right-of-way.
- (B) A developer shall not require, as a condition for entering into a contract for a project that will require excavation, that responsibility for performance of duties imposed under [sections 3781.25 to 3781.32 of the Revised Code](#) shall be assumed by a person other than the person on whom those duties are imposed under those sections. This division does not prohibit a utility from entering into any contract for the performance of duties that are imposed on a utility under those sections.

(C) Nothing in sections 3728.25 to 3728.32 [FN1] of the Revised Code shall be construed to require a utility to relocate its underground utility facilities located at an excavation site.

[FN1] So in original; should this read “3781.25 to 3781.32”?

### **3781.51 to 3781.53 Definitions; Labeling of safety glazing materials; Prohibitions--Repealed**

### **3781.51 to 3781.53 Definitions; Labeling of safety glazing materials; Prohibitions--Repealed**

### **3781.51 to 3781.53 Definitions; Labeling of safety glazing materials; Prohibitions--Repealed**

### **3781.55 Breast-feeding in place of public accommodation**

A mother is entitled to breast-feed her baby in any location of a place of public accommodation wherein the mother otherwise is permitted.

“Place of public accommodation” has the same meaning as in [section 4112.01 of the Revised Code](#).

### **3781.99 Penalties**

(A) Whoever violates [division \(E\) of section 3781.111 of the Revised Code](#) shall be issued a warning for a first offense. On each subsequent offense, the person shall be fined twenty-five dollars for each parking location that is not properly marked or whose markings are not properly maintained.

(B) Whoever violates this chapter or any rule adopted or order issued pursuant to it that relates to the construction, alteration, or repair of any building, and the violation is not detrimental to the health, safety, or welfare of any person shall be fined not more than one hundred dollars.

(C) Whoever violates this chapter or any rule adopted or order issued pursuant to it that relates to the construction, alteration, or repair of any building, and the violation is detrimental to the health, safety, or welfare of any person, is guilty of a minor misdemeanor.

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