



## Ohio Scenic River Law



### Section 1547.01 (Definitions)

The following definitions are applicable to sections 1547.51, 1547.52, 1547.81, 1547.82, 1547.83, 1547.84, 1547.85, 1547.86 and 1547.87 of the Revised Code:

(32) “Watercourse” means a substantially natural channel with recognized banks and bottom in which a flow of water occurs, with an average of at least ten feet mean surface water width and at least five miles of length.

(33) “Impoundment” means the reservoir created by a dam or other artificial barrier across a watercourse that causes water to be stored deeper than and generally beyond the banks of the natural channel of the watercourse during periods of normal flow, but does not include water stored behind rock piles, rock riffle dams, and low channel dams where the depth of water is less than ten feet above the channel bottom and is essentially confined within the banks of the natural channel during periods of normal stream flow.

(34) “Wild river area” means an area declared a wild river area by the director of natural resources under this chapter and includes those rivers or sections of rivers that are free of impoundments and generally inaccessible except by trail, with watersheds or shorelines essentially primitive and waters unpolluted, representing vestiges of primitive America.

(35) “Scenic river area” means an area declared a scenic river area by the director under this chapter and includes those rivers or sections of rivers that are free of impoundments, with shorelines or watersheds still largely primitive and shorelines largely undeveloped, but accessible in places by roads.

(36) “Recreational river area” means an area declared a recreational river area by the director under this chapter and includes those rivers or sections of rivers that are readily accessible by road or railroad, that may have some development along their shorelines, and that may have undergone some impoundment or diversion in the past.

### Section 1547.51 (Authorization of a state Scenic Rivers Program)

There is hereby created within the department of natural resources the division of watercraft. The division shall do all of the following:

(C) Provide wild, scenic and recreational river area conservation, education and provide for corridor protection, restoration, habitat enhancement, and clean-up projects in wild river areas, scenic river areas and recreational river areas. *(A Stream Quality Monitoring Program will be established to involve local school groups and volunteers in the science of river ecology.)*

### Section 1547.52 (Duties of the Program administrator)

(A) The division of watercraft shall be administered by the chief of the division of watercraft. The chief may adopt, amend, and rescind:

(3) Rules governing the use, visitation, protection, and administration of wild river areas, scenic river areas, and recreational river areas

(4) Rules establishing fees and charges for all of the following:

(d) The conducting of stream impact reviews of any planned or proposed construction, modification, renovation, or development project that may potentially impact a watercourse within a designated wild, scenic, or recreational river area. ***(There have never been any such fees or charges established.)***

**Section 1547.81** *(Procedure for designating a stream as Wild, Scenic, or Recreational)*

The director of natural resources or the director's representative may create, supervise, or operate, protect, and maintain wild, scenic and recreational river areas. In creating wild, scenic and recreational river areas, the director shall classify each such area as either a wild river area, a scenic river area, or a recreational river area. The director or the director's representative may prepare and maintain a plan for the establishment, development, use and administration of those areas as a part of the comprehensive state plans for water management and outdoor recreation. The director's representative may cooperate with federal agencies administering any federal program concerning wild, scenic, or recreational river areas.

The director may propose for establishment as a wild, scenic, or recreational river area a part or parts of any watercourse in this state, with adjacent lands, that in the director's judgment possesses water conservation, scenic, fish, wildlife, historic or outdoor recreation values that should be preserved. The area shall include lands adjacent to the watercourse in sufficient width to preserve, protect, and develop the natural character of the watercourse, but shall not include any lands more than one thousand feet from the normal waterlines of the watercourse unless an additional width is necessary to preserve water conservation, scenic, fish, wildlife, historic, or outdoor recreation values. ***(The wild, scenic, or recreational 'area' does NOT have different private property rights than before designation. The Scenic River 'area' is comparable to the 'region' designated around Paint Creek Lake by the Army Corps of Engineers.)***

The director shall publish the intention to declare an area a wild, scenic, or recreational river area at least once in the newspaper of general circulation in each county, any part of which is within the area, and shall send written notice of the intention to the legislative authority of each county, township, and municipal corporation and to each conservancy district established under Chapter 6101 of the Revised Code, any part of which is within the area, and to the director of transportation, the director of development, the director of administrative services, and the director of environmental protection. The notices shall include a copy of a map and description of the area.

After thirty days from the last date of publication or dispatch of written notice as required in this section, the director shall enter a declaration in the director's journal that the area is a wild river area, scenic river area, or recreational river area. When so entered, the area is a wild, scenic, or recreational river area, as applicable. The director, after thirty days' notice and prescribed in this section and upon the approval of the recreational and resources commission created in section 1501.04 of the Revised Code, may terminate the status of an area as a wild river area, scenic river area, or recreational river area by an entry in the director's journal.

Declaration by the director that an area is a wild, scenic, or recreational river area **does not authorize the director or any governmental agency or political subdivision to restrict the use of land by the owner thereof** or any person acting under the landowner's authority or to enter upon the land and does not expand or abridge the regulatory authority of any governmental agency or political subdivision over the area. ***(Private property rights remain unchanged.)***

The director may enter into a lease or other agreement with a political subdivision to administer all or part of a wild, scenic, or recreational river area and may acquire real property or any estate, right or interest

therein in order to provide for the protection and public recreational use of a wild, scenic or recreational river area. ***(The Scenic Rivers Program often acquires land on designated streams and allows local park districts to operate it as a public park.)***

The chief of the division of watercraft or the chief's representative may participate in watershed-wide planning with federal, state, and local agencies in order to protect the values of wild, scenic, and recreational river areas. ***(In some cases, staff have attracted grant money for watershed planning and improvement.)***

**Section 1547.82** *(Review of publicly funded projects within 1000 feet of the waterway)*

No state department, state agency, or political subdivision shall build or enlarge any highway, road, or structure or modify or cause the modification of the channel of any watercourse within a wild, scenic, or recreational river area outside the limits of a municipal corporation without first having obtained approval of the plans for the highway, road, or structure or channel modification from the director of natural resources or the director's representative. The court of common pleas having jurisdiction, upon petition by the director, shall enjoin work on any highway, road, or structure or channel modification for which such approval has not been obtained. ***(Staff and the citizens advisory council review plans for publicly funded projects such as bridge building or repair, sewage treatment plant building or expansion, etc. and may propose measures to preserve scenic river values in the execution of these projects. The process is always collaborative with the project manager. No project has been denied outright.)***

**Section 1547.83** *(Authorization for the state government to fund the Scenic Rivers Program)*

The chief of the division of watercraft shall administer the state programs for wild river areas, scenic river areas, and recreational river areas. The chief may accept and administer state and federal financial assistance for the maintenance, protection, and administration of wild, scenic, and recreational river area and for construction of facilities within those areas. The chief, with the approval of the director of natural resources, may expend for the purpose of administering the state programs for wild, scenic, and recreational river areas money that is appropriated by the general assembly for that purpose, money that is in the scenic rivers protection fund created in section 4501.24 of the Revised Code, and money that is in the waterways safety fund created in section 1547.75 of the Revised Code, including money generated by the waterways conservation assessment fee levied by sections 1547.54 and 1547.542 of the Revised Code, as determined to be necessary by the division of watercraft not to exceed six hundred fifty thousand dollars per fiscal year. The chief may condition any expenditures, maintenance activities, or construction of facilities on the adoption and enforcement of adequate floodplain zoning or land use rules.

Any instrument by which real property is acquired pursuant to this section shall identify the agency of the state that has the use and benefit of the real property as specified in section 5301.012 of the Revised Code.

The chief may cooperate with federal agencies administering any federal program concerning wild, scenic, or recreational river areas.

**Section 1547.84** *(An advisory council of local citizens will be established to advise ODNR)*

The director of natural resources shall appoint an advisory council for each wild, scenic, or recreational river area, composed of not more than ten persons who are representative of local government and local organizations and interests in the vicinity of the wild, scenic, or recreational river area, who shall serve without compensation. The chief of the division of watercraft or the chief's representative shall serve as an ex officio member of each council.

The initial members appointed to each council shall serve for terms of not more than three years, with the terms of not more than four members of any council ending in the same year. Thereafter, terms of office shall be for three years commencing on the first day of February and ending on the last day of January.

Each council shall advise the chief on the acquisition of land and easements and on the lands and waters that should be included in a wild, scenic, or recreational river area or a proposed wild, scenic, or recreational river area, facilities therein, and other aspects of establishment and administration of the area that may affect the local interest.

**Section 1547.85** *(With local support, the waterway may be nominated for the federal Wild & Scenic River designation)*

The director of natural resources may participate in the federal program for the protection of certain selected rivers that are located within the boundaries of the state as provided in the “Wild and Scenic Rivers Act,” 82 Stat. 906 (1968), 16 U.S.C. 1271 et seq., as amended. The director may authorize the chief of the division of watercraft to participate in any other federal program established for the purpose of protecting, conserving, or developing recreational access to waters in this state that possess outstanding scenic, recreational, geologic, fish and wildlife, historic, cultural, or other similar values.

**Section 1547.86** *(Preeminence of local municipalities and of the federal government)*

Any action taken by the chief of the division of watercraft under sections 1547.81 to 1547.87 of the Revised Code shall not be deemed in conflict with certain powers and duties conferred on and delegated to federal agencies and to municipal corporations under Section 7 of Article XVIII, Ohio Constitution, or as provided by sections 721.04 to 721.11 of the Revised Code. ***(The Scenic Rivers Program has no authority within city limits.)***

**Section 1547.87** *(Citizens may donate land or other gifts to protect designated waterways)*

The division of watercraft in carrying out sections 1547.81 to 1547.87 of the Revised Code, may accept, receive, and expend gifts, devises, or bequests of money, lands, or other properties under the terms established in section 9.20 of the Revised Code.