

## **ACT 537: EXCEPTIONS TO THE REQUIREMENT TO REVISE THE OFFICIAL PLAN (“EXCEPTIONS”)**

The Pennsylvania Sewage Facilities Act (Act 537), requires each municipality in the state to have an Official Sewage Facilities Plan that addresses the existing and future sewage disposal needs of the municipality. In most cases, completion of formal sewage facilities planning for new land development is required to update or revise the municipal official plan before a subdivision is created, thus ensuring an adequate means of sewage disposal exists for the subdivision. However, there are certain categories of subdivisions that do not require formal adoption of the plan by the municipality as a revision to the official plan. This fact sheet answers questions that are often asked regarding sewage planning for “exceptions” as described in 25 Pa. Code §71.55. This section of the Department of Environmental Protection’s (DEP’s) regulations, as well as others, is available online at [www.pacode.com](http://www.pacode.com).

### **What is an “exception?”**

To qualify as an “exception,” a subdivision must fit the following criteria:

- Planning would normally be required for the subdivision under Act 537 (to determine if planning is required for the project, request information on subdivisions exempt from planning from your DEP regional office or refer to the DEP fact sheet on the subject that is available on the DEP website at [www.dep.state.pa.us](http://www.dep.state.pa.us), keyword: Sewage);
- The entire subdivision (proposed lots, previous lots and residual land) must consist of no more than 10 lots created since May 15, 1972;
- The lots must be proposed as sites for construction of detached single family homes;
- The proposed homes must be intended to be served by individual onlot sewage disposal systems; and
- “Exceptions” are not prohibited by local public health or environmental conditions.

If all of these conditions are met, the proposed subdivision should qualify as an “exception.”

### **How is an “exception” planned?**

DEP has produced a series of forms, called “planning module components,” that are used to gather information about a project. When an exception is proposed, the developer should request a “*Component 1 – Exception to the Requirements to Revise the Official Plan (3800-FM-BPNPSM0350)*” form from the municipality where the proposed subdivision is located, from the DEP regional office serving that municipality, or electronically in DEP’s eLibrary online at [www.dep.state.pa.us](http://www.dep.state.pa.us).

### **Who should complete the Component 1 planning module form?**

An individual, such as a consulting engineer or surveyor, who is familiar with the municipality’s official plan and with DEP’s regulations and procedures, should complete the Component 1. The municipality’s certified Sewage Enforcement Officer (SEO) also should be consulted to confirm site and soil testing information.

### **What information must be provided in the Component 1 form?**

The Component 1 form contains instructions that describe the planning process and the information required in detail. The developer is required to provide information about the proposed subdivision, including:

- The location of the subdivision;
- The number of lots proposed;
- The planned layout of the subdivision, in the form of a surveyor’s drawing or “plot plan”;
- The planned source of drinking water (wells or a public supplier); and
- The site conditions, such as soil testing results and ground slope measurements.

When the Component 1 form is complete and all of the associated information required has been attached, the complete plan is called a “planning module for land development” or simply a “planning module.”

### **When the Component 1 planning module is complete, what’s the next step?**

The municipality where the proposed subdivision is located reviews the completed planning module.

### **What is the municipality's role in review of "exceptions"?**

Each municipality has the primary responsibility to review and, if appropriate, approve "exceptions." DEP provides oversight and assistance to local governments to help them effectively carry out their duties.

### **How long does it take to get municipal approval?**

If the planning module is complete, the municipality has 60 days to review and act on the plan unless both the developer and municipality agree to a time extension in writing. The municipality must either approve or disapprove the plan within the 60 days, or the agreed-to time extension. If the municipality approves the planning module, the municipality then sends the planning module to DEP for final review. If the municipality fails to act within the allotted time, the planning module is "deemed approved" and can be sent to DEP for final review. If the planning module is not complete, the municipality will request the missing information before taking action.

### **How long does it take to get DEP approval for an exception?**

DEP has 10 working days to determine if the Component 1 is a complete submission and then 30 calendar days to act on the complete Component 1 planning module. If DEP does not act within the 30 day period, the "exception" planning module is deemed to be applicable.

### **Is there a fee for DEP processing of an exception?**

Yes. Act 537 requires DEP to charge a per-lot fee for processing of planning modules. The amount is set by law and varies with the type of project. The fee for exceptions planned using a Component 1 is \$35 per lot. The developer calculates the appropriate fee and submits it to DEP with the planning modules. DEP does not include residual tracts in this fee calculation.

### **What happens if DEP or the municipality finds that the applicant's proposed subdivision is not an exception?**

If the municipality or DEP discover that the proposed subdivision does not meet one or more of the conditions required to qualify as an exception, the applicant will be informed and provided with the appropriate DEP forms. While some of these forms may require more information than the Component 1 form, much of the information, such as soil test results and plot plan, can be reused.

### **When can property owners apply for onlot system permits for their lots?**

The developer may apply for individual onlot sewage disposal system permits after receiving final DEP action on the Component 1 Planning Module.

For more information, visit [www.dep.state.pa.us](http://www.dep.state.pa.us), keyword: Sewage or click on "Regional Resources."