

INFORMATION FOR PLACEMENT OF FARMLAND IN AN AGRICULTURAL DISTRICT

A. WHO MAY FILE?

Any owner of land used for agricultural production may file an application to have the land placed in an agricultural district.

B. WHERE TO FILE

The completed application must be filed with the auditor of the county where the land is located. The applicant will be notified of action taken by the county auditor within 30 days of the filing of the application if the land is not within a municipal corporation or an annexation petition has not been filed. If the land for which an application has been made lies within a municipal corporation limit or if an annexation petition that includes the land has been filed with the Board of County Commissioners under Section 709.02 of the Ohio Revised Code, a copy of the application must also be filed with the Clerk of the legislative body of the municipal corporation. The legislative body is required to conduct a public hearing on the application within 30 days after the application has been filed with the Clerk. Within 30 days of the hearing, the legislative body may approve the application, modify and approve the application as modified, or reject the application.

C. WHEN TO FILE AND RENEWAL

The original application may be filed at any time for placement of land in an agricultural district for a five-year period. If at the end of five years, the owner decides to keep some or all of his or her land in a district, he or she shall submit a renewal application and must meet the same land requirements and use the same application process as the original application. The renewal application may be filed at any time after the first Monday in January and prior to the first Monday in March of the year during which an agricultural district terminates, for a period of time ending on the first Monday in April of the fifth year following the renewal application.

D. WHAT IS "LAND USED FOR AGRICULTURAL PRODUCTION?"

In accordance with Section 929.01(A) of the Revised Code, land is devoted to "agricultural production" when it is used for commercial aquaculture, apiculture, animal husbandry, poultry husbandry; the production for a commercial purpose of field crops, tobacco, fruits, vegetables, timber, nursery stock, ornamental shrubs, ornamental trees; flowers or sod; the growth of timber for a noncommercial purpose if the land on which the timber is grown is contiguous to or part of a parcel of land under common ownership that is otherwise devoted exclusively to agricultural use; or any combination of such husbandry, production, or growth; and includes the

processing, drying, storage and marketing of agricultural products when those activities are conducted in conjunction with such husbandry, production, or growth.

“Agricultural production” includes conservation practices provided that the tracts, lots, or parcels of the land or portions thereof that are used for conservation practices comprise not more than twenty-five percent of tracts, lots, or parcels of land that are otherwise devoted exclusively to agricultural use and for which an application is filed.

“Conservation practices” are practices used to abate soil erosion as required in the management of the farming operation, and include, but are not limited to, the installation, construction, development, planting, or use of grass waterways, terraces, diversions, filter strips, field borders, windbreaks, riparian buffers, wetlands, ponds, and cover crops for that purpose.

E. WHAT DOES “TRACTS, LOTS, OR PARCELS OF LAND” MEAN?

Tracts, lots, or parcels mean distinct portions of pieces of land (not necessarily contiguous) where the title is held by one owner, as listed on the tax list and duplicate of the county, is in agricultural production and conforms with the requirements of either D1, D2, or D3 below.

F. ARE THERE ANY OTHER REQUIREMENTS?

1. The land for which the application is made must have been used exclusively for agricultural production or devoted to and qualified for payments or other compensation under a land retirement or conservation program under an agreement with a federal agency for the three consecutive calendar years prior to the year in which application is made. Evidence must be shown on the application. If the land contains timber which is not being grown for commercial purposes the land on which the timber is growing must be contiguous to or part of a parcel under common ownership that is otherwise devoted exclusively to agricultural use.
2. If the total amount of land for which application is made is less than 10 acres, there is an additional requirement that the applicant submit evidence with his application that the activities conducted on the land have produced an average yearly gross income of at least twenty-five hundred dollars over the three years immediately preceding the year in which application is made or that the land will produce an anticipated annual gross income of that amount.
3. Evidence of annual gross income may be satisfied by attaching to the application form a short statement stating the number of animals by species and anticipated market value, number of acres of crops to be grown, their expected yield and price per bushel or similar specific information.

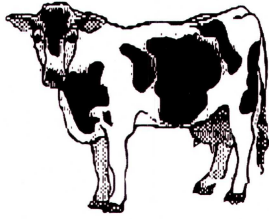
G. IS THERE A PENALTY FOR EARLY WITHDRAWAL?

Land removed from this program before the 5-year enrollment period is subject to penalty, per Section 929.02(D) of the Ohio Revised Code. See County Auditor’s Office for details on how the amount of the withdrawal penalty is determined.

H. APPEAL OF APPLICATION

The applicant may appeal the denial of the application to the court of common pleas of the county in which the application was filed within thirty days of the receipt of the notice denying the application. When the land lies within a municipality the applicant may also appeal a decision to modify or reject an application to the court of common pleas of the county in which the application was filed within thirty days of the receipt of the notice of modification or rejection. In addition, the applicant may withdraw an application modified by a legislative body if he or she disapproves of the modifications.

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FARM DISTRICT

929.02 : You may file a farm district application anytime during the year. Three years before filing the land must have been devoted to agricultural production. You must be able to show proof of this production or show proof of anticipated production for those three years of at least \$2500 or more per year if the land is 10 acres or less.

If an application is denied (by us) we have thirty days to notify the applicant by certified mail. They can then appeal this denial with the Court of Common Pleas within thirty days of their denial notice. If we approve the application we must notify the applicant within thirty days and also send a copy of the application being approved along with the acceptance letter. The application is effective upon the date of filing the application.

If the property is within a municipal corporation, they must file with the City Council in their district. The City has 30 days to schedule a hearing from the date that the application was filed with their office. Then they have thirty days after the hearing date to make a decision. If council does not make a decision within the thirty days then the property is deemed approved. If the council denies an applicant they can then file with the Court of Common Pleas.

After the first Monday in January the renewal applications must be mailed out they all must be out before the first Monday in February. All applications must be back to our office no later than the first Monday in April. In March those applicants that still have not sent their renewals applications back in must be notified by certified mail that they have 1 month to send the renewal back in. If not the application will be terminated and removed from the Farm District Program.

WHAT BENEFITS DO YOU GET FOR BEING ON THE PROGRAM?

- 929.03** Protects farmer from being assessed with sewer, water, etc... on the property
- 929.04** Protects farmer against nuisance actions
- 929.05** Protects farmer from property being taken. No more than 10 acres.

§ 929.03 Exemption from collection of assessments; procedure upon removal or conversion to nonagricultural use; advance from water and sewer account.

(A)(1) No public entity with authority to levy special assessments on real property shall collect an assessment for purposes of sewer, water, or electrical service on real property that is within an agricultural district as described in division (A)(2) of this section without the permission of the owner, except that any assessment may be collected on a lot surrounding a dwelling or other structure not used in agricultural production that does not exceed one acre or the minimum area required by local zoning or subdivision rules, whichever is the greater area.

(2) For purposes of division (A)(1) of this section, an agricultural district is such a district that is established:

(a) In the case of counties, prior to the adoption of a resolution of necessity by a board of county commissioners, pursuant to section 6103.05 or 6117.06 of the Revised Code;

(b) In the case of municipal corporations, prior to whichever of the following occurs first:

(i) The adoption of the resolution of necessity by the municipal legislative authority, pursuant to section 727.12 or 729.02 of the Revised Code;

(ii) The service of notice on all or some of the owners to be assessed pursuant to section 729.06 of the Revised Code;

(iii) The adoption of the resolution or ordinance by the municipal legislative authority declaring the necessity for the improvement, the costs of which are to be assessed under procedures authorized by a municipal charter adopted pursuant to Section 7 of Article XVIII, Ohio Constitution, or, if no such ordinance or resolution is required under the charter, the service of the first notice on all or some of the owners of lands to be assessed, or the adoption of the first ordinance or resolution by the municipal legislative authority pertaining to the assessment proceedings under the charter.

(c) In the case of a regional water and sewer district established pursuant to Chapter 6119 of the Revised Code, prior to the adoption of a resolution of necessity by the board of trustees of the district under section 6119.25 of the Revised Code.

(B) For each special assessment levied by a public entity on real property within an agricultural district for purposes of sewer, water, or electrical service, the county auditor shall make and maintain a list showing:

(1) The name of the owner of each lot, tract, or parcel of land that is exempt from the collection of the special assessment under this section;

(2) A description of the exempt land;

(3) The purpose of the special assessment;

(4) The amount of the uncollected assessment on the exempt land.

§ 929.04 Defense to nuisance action.

In a civil action for nuisances involving agricultural activities, it is a complete defense if:

- (A) The agricultural activities were conducted within an agricultural district;
- (B) Agricultural activities were established within the agricultural district prior to the plaintiff's activities or interest on which the action is based;
- (C) The plaintiff was not involved in agricultural production; and
- (D) The agricultural activities were not in conflict with federal, state, and local laws and rules relating to the alleged nuisance or were conducted in accordance with generally accepted agriculture practices.

The plaintiff may offer proof of a violation independently of proof of a violation or conviction by any public official.

HISTORY: 139 v S 78 (Eff 6-29-82); 139 v H 35. Eff 1-1-83.

◀ The effective date of H 35 is set by section 5 of the act.

§ 929.05 Procedure for appropriation of property or distribution of public funds for nonagricultural purposes.

(A) No public or private agency, as defined in section 163.01 of the Revised Code, shall appropriate more than ten acres or ten per cent of an individual property under one ownership and currently used in agricultural production in an agricultural district, whichever is greater, except as provided in this section. No state agency, municipal corporation, county, township, or other political subdivision or taxing authority, or any other public entity, and no person shall advance a grant, loan, interest subsidy, or other distribution of public funds within an agricultural district for the construction of housing, or commercial or industrial facilities to serve non-agricultural uses of land, except as provided in this section.

(B) A public or private agency desiring to appropriate land in an agricultural district and a public entity or person desiring to make a distribution of public funds as provided in division (A) of this section shall, not fewer than thirty days before commencing proceedings or taking the action, give written notice of the intent to the department of agriculture unless the agency, public entity, or person has received the approval of an environmental document that includes consideration of the impact on agricultural land from an appropriate federal agency and the department of agriculture is listed among the agencies for coordination of the document. The notice shall be accompanied by a report justifying the proposed action, including an evaluation of alternatives that would not require the action within the agricultural district. The department shall review the proposed action to determine its effect on agricultural production in the district and on the policies, plans, objectives, and programs of other state or local government agencies. After considering the need for the proposed action and its necessity to protect, promote, or enhance the public health, safety, peace, or welfare of some or all inhabitants of the state, if the director of agriculture has reason to believe that the proposed action would have an unreasonably adverse effect on the district or on the policies, plans, objectives, or programs that would outweigh the protection, promotion, or enhancement of the public health, safety, peace, or welfare, he shall inform the governor within thirty days after having received the written notice. The governor shall issue an order that the proposed action shall not be taken for sixty days. During the sixty-day period the director shall immediately publish, in a newspaper of general circulation in the district, one notice of a public hearing to be held on the matter at a convenient location in or as near as possible to the district on a specified date from twenty to thirty days after publication of the notice and send personal notice by certified mail to any municipal corporation whose territory includes any part of the district and to any public or private agency, public entity, or person seeking to appropriate the land or make the distribution of funds. After the hearing and before the end of the sixty-day period, the director shall make final findings and recommendations in the matter in writing and deliver copies of the findings and recommendations to the agency, entity, or person seeking to appropriate the land or make the distribution, to any public agency having authority to review or approve the appropriation or distribution, and by publication in a manner conducive to the wide dissemination of the findings and recommendations to the public. A public agency having authority to review or approve the appropriation or distribution shall use the findings and recommendations to reach its final determination.

(C) The director of agriculture may institute a civil action to enjoin any prohibited

appropriation within an agricultural district until the department makes its final findings and recommendations under division (B) of this section. It is not necessary to the granting of such an injunction that the director prove that the injury threatened is irreparable.

(D) This section does not apply to any lines or other facilities used to transmit or distribute electricity, to any gas or oil pipeline or other facilities used for exploration, production, storage, transmission, or distribution of natural gas, synthetic gas, or oil, to any telephone lines, or to any activity or facility under the jurisdiction of the Ohio power siting board.

(E) This section does not apply to any emergency project immediately necessary for the preservation of the public health, safety, or general welfare.

(F) This section does not apply to a lot in an agricultural district that the owner sells or transfers to his son, daughter, brother, sister, mother, or father for the purpose of constructing a dwelling in which the relative will reside for at least three years.

HISTORY: 139 v S 78. Eff 6-29-82.