



If you own farmland in Ohio, there's a law that can help you protect that land. It's a law that has important benefits for Ohio farmers and can help ensure proper use of our state's most important resource – land. The law is Chapter 929 of the Ohio Revised Code, better known as the Farmland Preservation Act and commonly referred to as the "right to farm." The Ohio Farm Bureau Federation was instrumental in the drafting and passage of this law, which can help landowners deal with water, sewer lawsuits, and eminent domain. In 1982, Farm Bureau worked with legislators to adopt this law which will help keep you farming. The intent of the law is to remove outside pressures that cause farmland to be converted to other uses. The following questions and answers should help explain what the law means to you.

This brochure is meant to be an educational tool and should not be perceived as legal advice.

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Ohio's Right to Farm Law



What is an Agricultural District?

An agricultural district is a tract, parcel, or lot of land that, upon application by the landowner to the county auditor, receives an identity of being devoted to agricultural use. An individual landowner can apply to enroll his/her land as an agricultural district if the land is ten acres or more. If the tract is less than ten acres, the landowner must show that an average gross income of \$2500 in each of the last three years has been made from an agricultural use on the property.

If the land is found to be devoted to an agricultural use or devoted to a federal government land retirement or conservation program, the land will be identified as an agricultural district on the records of the county auditor and thereby receive statutory benefits.

What are specific benefits that a landowner can receive if his/her land is placed in an agricultural district?

The statute allows landowners to voluntarily create an agricultural district, provided certain minimum requirements are met. Owners who place land in an agricultural district receive a deferment on collection of any new water, sewer, and electric assessments as long as the land is farmed. The only exception to this rule is if there is a residence located on the property. In that case, the landowner will be required to pay an assessment only on the one acre that the residence is located on, even if the residence does not occupy an entire acre.

The statute provides an affirmative defense against civil nuisance actions when generally accepted agricultural practices are used on land located within an agricultural district. To obtain this protection, the agricultural activities within the district must have been present before the actions or interests of the plaintiffs, the plaintiff cannot be a farmer, and the agricultural activities on the property cannot be in violation of any other state, federal, or local laws related to nuisance.

Does an agricultural district protect the land from eminent domain?

Limited protection against the use of eminent domain powers of the government is given to land located within an agricultural district. If an eminent domain entity uses eminent domain powers for more than 10 acres or 10 percent of a parcel located within an agricultural district area, additional review procedures may be required before the land is taken.

What are the minimum qualifications to form an agricultural district?

First, the land must have been devoted to agriculture or to a federal government land retirement or conservation program for three years prior to the year of application. Second, the land must be composed of tracts, lots, or parcels that total not less than 10 acres or have an average gross annual income of at least \$2500 during the past three years.

What are the steps to follow when forming an agricultural district?

By visiting the county auditor's office and filing an application, any owner of land used in agricultural production can place land in an agricultural district. The application is only one page. The auditor will determine if the land meets the minimum qualifications and provide written notice to the landowner. Generally, that is all there is to it. However, when the land is located within a municipal corporation, an additional application must be made to the city or village. As long as all requirements are met under the law, creation of an agricultural district is automatic, unless the land lies inside a municipality.

Is there a fee to form an agricultural district?

No.

How is an agricultural district related to Current Agriculture Use Value (CAUV) in real estate taxation?

The agricultural district uses similar minimum criteria for land to qualify as is used for CAUV. The same land can be in either program or in both programs. However, making an application for one program does not automatically include the other. A separate application is needed for each program.

Is there a penalty for withdrawal from an agricultural district or conversion of the land to non-agricultural use in an agricultural district?

An agricultural district is a commitment for five years. Converting the land to another use after the five year period carries no penalty and there is no obligation to sign up again. However, any deferred assessment will be due at that time. If land is withdrawn prior to the five year expiration date there is a penalty. If the land is taxed under CAUV, the penalty is the prime interest rate times the recoupment under CAUV and in addition, any deferred assessments plus interest become due.

Deferred assessments and interest that come due may be paid over a period of time. If the land is not being taxed under CAUV the penalty is the prime interest rate times the savings that would have occurred under the CAUV program.

How and when can the farmer renew an agricultural district?

An agricultural district expires in five years from the date of application. The county auditor will mail notices along with CAUV mailed notices. To simplify renewal, the applicant may renew anytime after the first Monday in January during the fifth year of the agricultural district. After the first Monday in March, the county auditor will notify all those who have not renewed that failure to renew by the first Monday in April will cause the land to be removed from the agricultural district upon its termination date.

What if my farm is located within the boundaries of a municipality?

If the land proposed for an agricultural district is within a municipal corporation, or an annexation petition has been filed, the owner must also file with the city or village. Within 30 days the municipal corporation must approve, modify or reject the application. If modified or rejected, it must "Demonstrate ... a substantial adverse effect" on the provision of municipal services, the efficient use of land, orderly growth and development, or the public health, safety, or welfare. Modifications may include the limiting of assessment benefits, nuisance protection, and duration of district, but is not limited to those areas.

If the land becomes annexed by a municipality after it is already in an agricultural district, then the municipality does not have the power to review the application providing:

- The land was not sold or transferred to another person (except within the immediate family).
- The owner that established the district did not sign the annexation petition.
- The owner did not vote in favor of annexation.

As you can see, this law has some important benefits for you, the landowner. To avoid missing out, see your county auditor and sign your farm up today.