

901-2-01 **Definitions.**

As used in this chapter:

- (A) "Agriculture" means commercial animal or poultry husbandry, aquaculture, apiculture, the production for a commercial purpose of timber, field crops, tobacco, fruits, vegetables, nursery stock, ornamental trees, sod, flowers, or 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 were devoted to and qualified for payments or other compensation under a land retirement or conservation program under an agreement with an agency of the federal government pursuant to section 5713.30 of the Revised Code.
- (B) "Agricultural Area" means land that a political subdivision has identified in an adopted local comprehensive land use plan as significant for agriculture.
- (C) "Agricultural District" means a tract, lot, or parcel of land that is enrolled with the county auditor as land devoted to agricultural use pursuant to Chapter 929. of the Revised Code.
- (D) "Agricultural Easement" means an incorporeal right or interest in land that is held for the public purpose of retaining the use of land predominantly in agriculture; that imposes any limitations on the use or development of the land that are appropriate at the time of creation of the easement to achieve that purpose in perpetuity; that is in the form of articles of dedication, easement, covenant, restriction, or condition; and that includes appropriate provisions for the local holder to enter the property subject to the easement at reasonable times to ensure compliance with its provisions pursuant to section 5301.67 of the Revised Code.
- (E) "Agricultural Easement Value" as determined by the department's points-based appraisal system, or a qualified appraiser if required by the director, equals the difference between the fair market value of the property before and after the easement takes effect.
- (F) "Agricultural Security Area" means an area of at least five hundred acres of contiguous land that is enrolled with the county commissioners and township trustees for a period of ten years and devoted to agricultural use pursuant to sections 931.01 to 931.09, 931.99, and 5709.28 of the Revised Code.
- (G) "Application for Certification" means the act of a municipal corporation, county, township, soil and water conservation district or charitable organization submitting an application to the director demonstrating that it has the managerial, legal and financial expertise to operate a local agricultural easement purchase program and to

share legal responsibility with the director to select, hold, monitor, supervise and enforce the provisions of an agricultural easement.

- (H) "Applicant" or "Local Sponsor" means a municipal corporation, county, township, soil and water conservation district, or charitable organization that applies for a matching grant on behalf of the landowner.
- (I) "Application Property" means the land or lands that make up the holdings, on a single application, for which a matching grant is being sought in exchange for the sale of a perpetual agricultural easement.
- (J) "Best Management Practices" means those farming methods generally accepted in the agricultural community as beneficial in conserving the productivity of farmland.
- (K) "Century Farm" is an Ohio department of agriculture program designed to recognize families who have maintained a farm or homestead in their family for at least one hundred years with an emphasis on preserved working farms.
- (L) "Certified Local Sponsor" is a local sponsor who has been approved by the director for certification under the ODA certification and capacity rating system and as further provided in rule 901-2-07 of the Administrative Code.
- (M) "Charitable Organization" means an organization that meets the federal taxation requirements outlined within division (B) of section 5301.69 of the Revised Code.
- (N) "Department of Agriculture" or "ODA" means the department of agriculture, state of Ohio.
- (O) "Director" means the director of the Ohio department of agriculture or their designees.
- (P) "Farmland Preservation Advisory Board" means the board as defined in section 901.23 of the Revised Code.
- (Q) "Farmland Value" means the price as of the valuation date for land, exclusive of buildings and related site improvements, used for agriculture which a willing and informed seller who is not obligated to sell would accept for the land, and which a willing and informed buyer who is not obligated to buy would pay for the land. The valuation shall be determined by the department's points-based appraisal system, or a general real estate appraiser who is certified under Chapter 4763. of the Revised Code if required by the director. This value applies only to the comparable sales method of appraisal, not the points based appraisal method.

- (R) "Fund" means the "Clean Ohio Agricultural Easement Fund" as defined by division (F) of section 901.21 of the Revised Code, and the agricultural easement purchase fund as defined by division (E) of section 901.21 of the Revised Code.
- (S) "Grantor" means the landowner(s), partnership, corporation, or trust who sells or donates an agricultural easement to the director of the Ohio department of agriculture, a political subdivision, or a charitable organization.
- (T) "Farmstead" or "Homestead" means the portion of an application property on which a residence, dwelling or house, or residence-related appurtenances are permitted.
- (U) "Legal Entity" means a person, firm, corporation, association, or partnership, or other entity authorized under Ohio law.
- (V) "Local Comprehensive Land Use Plan" means a municipal, county, township, or soil and water conservation district, comprehensive long range land use plan that identifies areas for agricultural protection and has been adopted by the local political subdivision.
- (W) "Local Holder" means the municipal corporation, county, township, soil and water conservation district, or charitable organization as designated in the agricultural easement, which shares legal responsibility with the director of the Ohio department of agriculture to hold, monitor, supervise and enforce the provisions of the agricultural easement.
- (X) "Local Sponsor" or "Applicant" means a municipal corporation, county, township, soil and water conservation district, or charitable organization that applies for a matching grant on behalf of the landowner.
- (Y) "Market Value" means the price as of the valuation date for land exclusive of buildings and related site improvements, in accordance with its highest and best use which a willing and informed seller who is not obligated to sell would accept for the land and which a willing and informed buyer who is not obligated to buy would pay for the land. The valuation shall be determined by the department's points-based appraisal system, or a general real estate appraiser who is certified under Chapter 4763. of the Revised Code if required by the director. This value applies only to the comparable sales method of appraisal, not the points based appraisal method.
- (Z) "NRCS" - natural resource conservation service.

(AA) "ODA Certification and Capacity Rating" means the certification by the director that a municipal corporation, county, township, soil and water conservation district or charitable organization has demonstrated in its application for certification that it does have the managerial, legal and fiscal expertise to operate a local agricultural easement purchase program and, based upon its degree of expertise, the director awards a matching grant of up to one million dollars to share legal responsibility with the department to select, hold, monitor, supervise, and enforce the provisions of an agricultural easement.

(BB) "ODNR" - The Ohio department of natural resources.

~~(CC)~~ "~~Option to Purchase an Agricultural Easement~~" means an agreement between the landowner and the Ohio department of agriculture in which the landowner agrees to convey an agricultural easement on certain property to the Ohio department of agriculture, and the department agrees to purchase the easement for a fixed price.

~~(DD)~~(CC) "Political Subdivision" means a municipal corporation, county, township, or soil and water conservation district.

(DD) "Purchase Agreement" means an agreement between the landowner and the Ohio department of agriculture in which the landowner agrees to convey an agricultural easement on certain property to the Ohio department of agriculture, and the department agrees to purchase the easement for a fixed price.

(EE) "Regional Balance" is based upon, but not limited to: (1) the number of applications from local sponsors received from a region in proportion to the total number of landowner applications submitted; (2) the number of applications for certification received from a region in proportion to the total number of applications submitted; and (3) the total amount of funds a region has previously received in proportion to the total amount of funds distributed.

(FF) "Soil and Water Conservation District" (SWCDs) -SWCDs provide assistance to urban and agricultural land users. Their specialties are soil erosion prevention and water management. The SWCDs are promulgated in the "soil conservation and domestic allotment Act of 1935", 16 U.S.C. 590a -0590q-3.

(GG) Contiguous farmland means any of the following:

- (1) Geographically contiguous property used for agriculture, which may include a homestead(s);
- (2) Noncontiguous property used for agriculture that is owned by one person and

connected by a right-of-way that the person controls and to which the public does not have access;

- (3) Two or more pieces of property used for agriculture that would be geographically contiguous but for the fact that the property is separated by a public or private right-of-way or rights-of-way or by rivers, streams, creeks, or other bodies of water; or,
 - (4) Two or more pieces of property used for agriculture that would be geographically contiguous but for the fact that the property is separated by a unique corridor, such as a state owned interstate or railroad, and the director believes that it is in the land and department's best interest to have the farm parcels under one easement.
- (HH) Flood pool- an area of flood-prone land subject to inundation by impounded floodwaters from a flood control structure. For dams with abnormal pool elevation, the lands surrounding this area that are below the elevation of an emergency spillway. This flood pool area is normally protected by a restricted development easement that was negotiated at the time of construction of the flood control structure.

Effective: 02/06/2014

R.C. 119.032 review dates: 10/18/2015

CERTIFIED ELECTRONICALLY

Certification

01/27/2014

Date

Promulgated Under: 119.03
Statutory Authority: 901.22
Rule Amplifies: 901.21, 901.22, 901.23
Prior Effective Dates: 02/01/2002, 02/21/2005, 03/21/2006, 10/28/2010,
01/17/2013