



# Farmland Preservation Office

## Agricultural Easements



### What is Farmland Preservation?

Agricultural land is a key part of Ohio's landscape. Preserving this land is essential. The food and agriculture industry contributes \$124 billion to our state's economy. In 1998, the Office of Farmland Preservation was created with a mission to preserve farmland in agricultural use.

### What is an agricultural easement?

An agricultural easement is a voluntary agreement between the landowner and ODA that, when placed on land, requires the landowner to perpetually maintain the land predominantly in agricultural use. Since the landowner is the party guaranteeing that the land will remain predominately in agriculture use, any enforcement of the agricultural easement would be against the landowner for a violation of the terms of the deed of easement.



### What does the deed of easement say?

The deed of easement specifies how the landowner may use granted property in the Farmland Preservation program. It is the landowner's responsibility to ensure they are following the deed of easement language and maintaining the land in agricultural use.

### How are agricultural easements granted?

ODA is granted agricultural easements through two different channels:

**Purchase** – In exchange for payment, a landowner grants an agricultural easement to ODA.

**Donation** – The landowner donates an agricultural easement to ODA. Although no payment is exchanged, the landowner may be entitled to a federal tax deduction.

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## What about utility projects?

Landowners may be approached by utility companies attempting to run utility easements through property encumbered by agricultural easements. Throughout the years, there have been different versions of the deed of easement and each deed specifies whether the landowner may or may not enter in to a utility easement. It is important for the landowner to notify ODA early if they are approached by a utility company. ODA will inform the utility company of the agricultural easement and the terms of the deed. ODA will work with the landowner and utility company to ensure that the land is maintained predominately in agricultural use. However, ODA can only enforce a violation of the deed of easement against the landowner and NOT the utility company. Further, an agricultural easement may be extinguished by eminent domain proceedings under applicable state or federal law. Although ODA will support the landowner's commitment to preserve the land, it is important to remember that it is the landowner's responsibility to maintain the land predominately in agricultural use to keep the promises made in the deed of easement.

## What about buildings and businesses?

The deeds of agricultural easements commonly restrict but do not necessarily prohibit using protected land for commercial/industrial activity. The deeds generally allow commercial activity that is consistent with agricultural use and include specific acceptable commercial activities. Protected Property may have a defined homestead. This is an area where the landowner may build non-agricultural buildings and residences without permission from or notification to ODA. Within the Protected Property, construction of new buildings may not be permitted on the Protected Property, or may require ODA's written consent, depending on the language of the deed.

## How does the easement process work?

Landowner applications are submitted by local sponsors in each county. Local sponsors are governments, soil and water conservation districts, and nonprofit conservation organizations who have applied to ODA to be part of the program. Local sponsors solicit landowners and are responsible for completing and submitting landowner applications to ODA. Applications are scored and the highest scoring farms for each local sponsor are selected for easement purchase offers.

The process to close an easement purchase is like any other real estate transaction. Once a landowner application is selected for purchase, the local sponsor works with the landowners to obtain a 90-year title search, complete any subordinations, and remedy any conditions on the property or in the title that may interfere with the purpose of the easement. Upon satisfactory completion of all requirements, the parties attend a closing with the title agent. The deed of agricultural easement is signed and recorded, and the purchase funds are transferred to the landowner.

## How does a landowner get started?

The Office of Farmland Preservation is happy to answer any questions regarding the program and to get landowners started in the process of preserving their farmland. They can be reached at [farmlandpres@agri.ohio.gov](mailto:farmlandpres@agri.ohio.gov) or 614.728.6238.

