

**Q:** How is the agricultural easement enforced?

**A:** ODA prefers to partner with a local entity to monitor the agricultural easement, including an annual visit to the farm. A local partner may include a county, township, land trust, or soil and water conservation district. ODA is committed to enforcing all agricultural easements that it holds to preserve the integrity of the easement and to comply with IRS requirements related to landowners who receive federal tax benefits for donating an agricultural easement. If ODA discovers or is made aware of a violation, ODA will work with the landowner and local partner to resolve the situation. If that attempt fails, ODA will take legal action to enforce the easement.

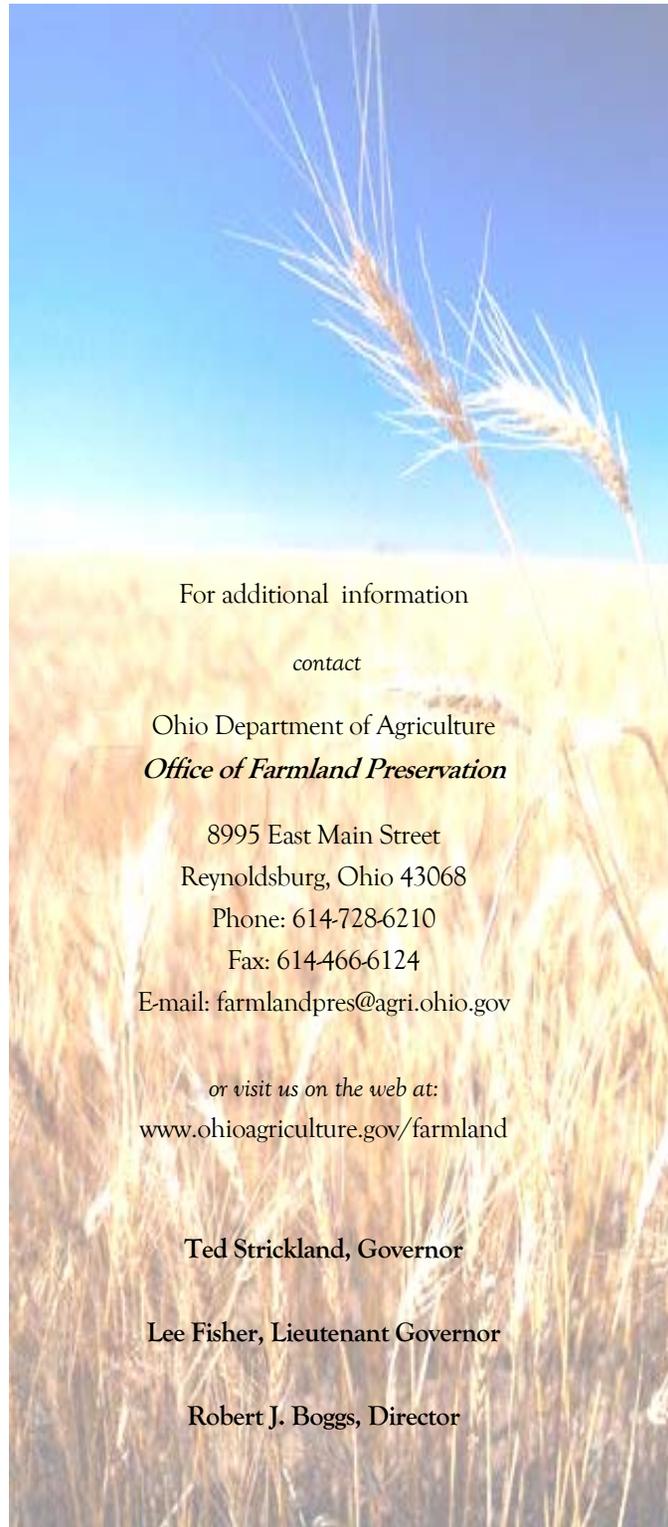
**Q:** How is the tax value determined?

**A:** Landowners may donate an agricultural easement, which is an IRS tax-deductible, charitable gift, provided the easement is perpetual. The example below demonstrates possible tax benefits of donating an agricultural easement.

**Example: A 200-acre farm...**

- Appraised at fair market development value:  
\$3,500 per acre = \$700,000
- Estimated farmland restricted value:  
\$2,200 per acre = \$440,000
- Potential tax-deductible charitable gift value:  
\$1,300 per acre = \$260,000

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For additional information  
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# Ohio

## Department of Agriculture



*Office of Farmland Preservation*

## Ohio

## Agricultural Easement Donation Program

**Q:** What is an agricultural easement?

**A:** An agricultural easement is a tool for landowners to protect their farm's soils, natural resource features and historic scenic open space. An agricultural easement is a permanent, legally binding restriction that forever limits the use of the land to predominantly agricultural activity. Protecting a farm through a donated easement allows the landowner to retain ownership and exclusive use of the land. The landowner still pays taxes, can continue to farm the land with any agricultural activity permitted by Ohio law, and can sell the land or pass it along as a gift or through the landowner's estate. Even through those transfers of ownership, the easement's restrictions remain on the land to prevent the new owner from developing or otherwise converting the land to non-agricultural use. ODA encourages every landowner to seek advice from an accountant, tax attorney, or other financial professional regarding any tax benefits or consequences that might result from a gift of a perpetual agricultural easement to ODA.

**Q:** Does the program accept all easement offers?

**A:** Donation of easements are evaluated on a case-by-case basis. There are certain legal requirements that must be met in order for land to be placed in an agricultural easement. Two major requirements are that the farmland must be enrolled in the county's Current Agricultural Use Valuation (CAUV) program for tax purposes and any liens or mortgages on the farm must be subordinated to the easement. Also, ODA has established guidelines for accepting donated agricultural easements regarding minimum farm size, subdivision of the land, and number of housing units.

**Q:** Why put an agricultural easement on your land?

**A:** Landowners who want to protect their family's farm can donate an agricultural easement as a way to prevent their land from becoming developed. There are also federal tax advantages associated with the donation of an easement.

**Q:** Who owns land under an agricultural easement?

**A:** The landowner who donated the easement remains the owner of the land. The privately owned land can be bought and sold at any time. However, the easement "runs with the land" and applies to all future landowners.

**Q:** What are the advantages of an agricultural easement?

**A:** For people who want to preserve their land, an easement will help to ensure the land will never be used in a way contrary to their intent. Financial benefits in the form of tax deductions may also be associated with easements. Easements often make it much easier to pass the land to the owner's children without paying large estate taxes.

**Q:** Will the agricultural easement grant the public access to my property?

**A:** No, the farm is still under private ownership and management by the landowner. Any public access to the farm, such as for hunting or agricultural education, is strictly up to the landowner. Public benefits include the knowledge that the land is being held for agricultural production now and in the future, and also that the scenic views of the landscape and rural heritage are being maintained.

**Q:** How do I know if my farm is eligible?

**A:** To be eligible for the program, the land must meet the following criteria:

- The land must be at least 40 acres in size and comprised of one or more contiguous parcels. For the purpose of the program, two or more parcels of land are contiguous if they share a common boundary or would share a common boundary if the parcels were not separated by a public or private right-of-way or by a river, stream, or other body of water.
- There cannot be any third-party interests in the land that are not conducive to agriculture, as determined by the director of ODA.
- The land must be enrolled in both the Current Agricultural Use Value (CAUV) tax program and the Agricultural District program with the county auditor.
- If the landowner intends to take advantage of federal tax benefits arising from the donation, the IRS will require the landowner to (a) commission and pay for an appraisal of the land and (b) submit an IRS Form 8283, signed by the director of ODA. The landowner must provide to ODA a copy of the IRS-required appraisal.
- Before accepting a donated agricultural easement, ODA will give notice of the donation to local elected officials, i.e. county commissioners, township trustees, and the mayor of any municipality within one-fourth mile of the farm. The local officials will be given 30 days to review and comment on the proposed donation. If one or more local elected governments object to the donation for a "valid" reason, the director of ODA may decline the donation. A valid reason might be that the local government has officially designated the farm property for non-farm use.