

Agricultural Districts: How They Are Affected by Annexations

Background

This chapter very briefly describes the establishment and renewal process of agricultural districts and explains how annexations can impact their existence. An agricultural district is an area of land that is granted certain protections to promote and encourage the preservation of agricultural land and agricultural production. The property owner must initiate the designation of an agricultural district, and the land must meet certain eligibility requirements.

Establishment of Agricultural Districts

Agricultural districts are established by filing an application with the county auditor. Applications are for a period of five years. The auditor reviews the application to determine if the request complies with the following basic eligibility criteria:

- A. The land must have been either devoted exclusively to agricultural production or have been involved in a land retirement or conservation program under a federal agency agreement during the three calendar years before the application is filed.
- B. There must be at least 10 acres of land.
- C. If there is less than 10 acres, the average yearly gross income during the three years prior to the filing of the application was \$2,500 or the owner has evidence of an anticipated gross income of \$2,500.

ORC 929.02

If the county auditor determines that the application does not meet the requirements, the application is denied. The applicant must be notified within 30 days of the filing of the application by certified mail, return receipt requested. The applicant then has 30 days to appeal the ruling to common pleas court. Applications that meet the requirements must also be approved within 30 days, and the applicant must be notified. The effective date of the application is the filing date, not the approval date.

Approval of an agricultural district is for a period of five years and may be renewed. The renewal application may include all or any part of the original district.

The county auditor must keep a record of all land that is within an agricultural district, including any modifications to applications that have been made by municipalities.

Establishment of Districts Affecting Municipalities

Although the same basic eligibility criteria and procedures apply as specified above, where land is located within a municipality or if an annexation has been filed with the county commissioners for any of the land in the application, additional restrictions apply to the application.

Where the land is within a municipality, a copy of the application must also be filed with the clerk of the legislative authority of the municipality. Within 30 days the municipality must hold a public hearing. Notice of the hearing must be published in a newspaper at least seven days prior to the hearing. The applicant must also be notified at least 10 days in advance. If the municipality does not hold the required hearing, the application is automatically approved.

ORC 929.02 (B)

Within 30 days after the hearing, the municipality may approve, modify or reject the application; no action within this time frame results in the petition being approved. Prior to rejecting an application, the municipality must make every effort to modify the application. In addition, if the municipality rejects or modifies the application, it must show that the rejection or modification is necessary to prevent a “substantial or adverse effect” on the following:

- A. The provision of municipal services,
- B. The efficient use of land,
- C. The orderly growth and development, or
- D. The public health, safety, or welfare of the municipality.

Within five days of the decision by the municipality, the applicant and the county auditor must be notified by certified mail, return receipt requested. The applicant then can, within 30 days, appeal the rejection or modification to common pleas court. The effective date of the district is the filing date unless the modification of an application by a municipality provides otherwise. An applicant who disapproves of municipal modifications may withdraw the entire application.

Impact of Annexation on Establishment of Agricultural Districts

In cases where an application for an agricultural district includes land for which an annexation is pending, hearings by the annexing municipality must commence within 30 days after the county commissioners grant the annexation petition. If a pending annexation petition is denied under Section 709.033 of the Revised Code (the “regular process” requiring at least a majority of the property owners to sign the petition) or if a municipality fails to conduct a hearing within the appropriate time, the application is deemed approved if it meets the basic criteria as determined by the county auditor.

ORC 929.02 (B)

Impact of Annexation on Existing Agricultural Districts

Land included in an agriculture district that is later annexed cannot be precluded from being in a district by the municipality if the owner did not sign the annexation petition.

The municipality can only act on any subsequent agricultural district application or renewal application if one of the following applies:

- A. The owner signed the annexation petition.
- B. An owner that opposed annexation has sold or transferred the land to another person.

ORC 902.02 (E)