

# PURCHASING FARMLAND? WATCH CAUV TAX RECOUPMENT



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Charles and Carolyn always dreamed of building a home in the country with plenty of land. When a local farmer listed a twelve-acre parcel for sale, they jumped at the opportunity. The farmer had used the land exclusively for growing soybeans for the past ten years. Charles and Carolyn planned out the location of their new homesite which included construction of a large lake. They were not farmers and had no intention of growing crops on the land.

The sale closed without a hitch. Charles and Carolyn built their dream home and settled into their new rural surroundings. The following year, they received their real property tax bill from the local treasurer's office. To their dismay, their tax bill contained a line item for "CAUV recoupment" with a large tax due. Charles and Carolyn contacted the local auditor's office to question the charge. The auditor clerk confirmed that the tax amount was correct and explained that it was a result of failing to continue qualifying agricultural activities on the land. Charles and Carolyn consulted with an attorney and learned that they were stuck with the tax because their purchase agreement did not require the seller to pay this tax recoupment.

The Current Agricultural Use Value (CAUV) is a provision in Ohio law that allows tax values for agricultural land to be set well below true market values. This results in a substantially lower tax bill for working farmers.

must file an application with the county auditor requesting the auditor to value the land under CAUV values. The Ohio Department of Taxation sets the CAUV values for each of Ohio's soil types and posts them yearly.

The agricultural use includes animal or poultry husbandry, aquaculture, algaculture (farming of algae), apiculture, the cultivation of hemp (by a person issued a hemp cultivation license) and the production for a commercial purpose of timber, field crops, tobacco, fruits, vegetables, nursery stock, ornamental trees, sod, or flowers.

But what happens when property is sold and no longer used for commercial agricultural use? Ohio law provides that when land registered in CAUV no longer qualifies, the tax savings under CAUV must be recouped. The county auditor must levy a charge on the land in an amount equal to the amount of the tax savings during the three tax years immediately preceding the sale. This becomes a lien on the property just like traditional real property taxes. In other words, the new owner gets a tax bill for the tax savings the seller enjoyed over the past three years.

Accordingly, when purchasing or selling farmland, it is very important to address the issue of CAUV recoupment in purchase agreements. The parties should negotiate who will pay the tax recoupment if it is levied. Oftentimes, the buyer will be given a credit at closing equal to the amount of tax recoupment. That way, the buyer will have the funds to pay the tax bill when it comes due. Other times, a purchase agreement states that the buyer must continue qualified farming activity on the land or pay the recoupment. It is important to consult a trusted real property attorney to address the proper allocation of CAUV tax recoupment when buying farmland. Otherwise, you may receive a surprise tax bill in the mail. The attorneys at Laribee & Hertrick, LLP are here to assist you.

*This article is intended to provide general information about the law. It is not intended to give legal advice. Readers are urged to seek advice from an attorney regarding their specific issues and rights.*

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## ARTICLE IX DISTRICT REGULATIONS

**Section 900 Compliance with Regulations.** The regulations for each district set forth by this Resolution shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, except as hereinafter provided; or as otherwise granted by the Board of Zoning Appeals.

1. No building, structure, or land shall be used or occupied and no building or structure or part thereof shall be erected, constructed, reconstructed, moved, or structurally altered except in conformity with all of the regulations herein specified for the district in which it is located.
2. No building or other structure shall be erected or altered:
  - a. to provide for greater height or bulk;
  - b. to accommodate or house a greater number of families;
  - c. to occupy a greater percentage of lot area;
  - d. to have narrower or smaller rear yards, front yards, side yards, or other open spaces;
3. No yard or lot existing at the time of passage of this Resolution shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Resolution shall meet at least the minimum requirements set forth herein.

**Section 910 Official Schedule of District Regulations Adopted.** District regulations shall be as set forth in the Official Schedule of District Regulations hereby adopted and declared to be a part of this Resolution and in Article 10 of this Resolution, "Supplementary District Regulations." Regulations for Mobile Home Parks shall be those specified in Article 13.

<b>OFFICIAL SCHEDULE OF DISTRICT REGULATIONS</b>		
<b>ZONING DISTRICTS</b>	<b>PERMITTED USES</b>	<b>CONDITIONAL USES</b>
<i>(Symbols as used on the official zoning map)</i>	<i>(Accessory uses and essential services are included)</i>	<i>(Permitted upon issuance of a Conditional Use Permit by the Board of Zoning Appeals)</i>
<b>1</b>	<b>2</b>	<b>3</b>
<b>U-1 RURAL UNDEVELOPED</b>	Agriculture; Conservation; Single Family Dwelling; Home Occupation; Public & quasi-public uses; Roadside produce stands; Small Wind Projects less than 5MW;	Agritourism; Bed & Breakfast; Commercial & Non-Commercial Recreation; Farm Implement Sales & Service; Food Processing; Home Occupation; Kennel; Manufactured and/or Mobile Homes Individually; Personal Services; Public Service Facility; Service Business; Veterinary Animal Hospital or Clinic
<b>R-1 LOW DENSITY RESIDENTIAL</b>	Single-Family Dwelling; Public & Quasi-Public Uses; Small Wind Projects less than 5MW;	Agritourism; Agriculture; Bed & Breakfast; Short Term Rental; Home Occupation; Manufactured and/or Mobile Homes Individually; Multi-Family Dwelling; Non-Commercial Recreation; Personal Services; Telecommunications Towers;
<b>B-1 SERVICE BUSINESS</b>	Kennel; Automotive Service Station; Commercial Recreation; Eating & Drinking Establishments; Food Processing; Offices; Personal Services; Public & Quasi-Public; Service Business; Single & Multi-Family Dwellings*; Small Wind Projects less than 5MW; Transient Lodgings; Uses; Veterinary Animal Hospital or Clinic; Wholesale & Warehousing;	Agritourism; Convenience-Type retail; Home Occupation; Manufactured and/or Mobile Homes Individually; Printing & Publishing; Public Service Facility; Shopping-type retail; Transport Terminals;
<b>M-2 HEAVY MANUFACTURING</b>	Light & Heavy Manufacturing; Service Business; Offices; Supply Yards; Wholesale & Warehousing; Transport Terminals; Public & Quasi-Public Uses; Manufactured and/or Mobile Home Park; Printing & Publishing; Single-Family Dwelling*; Small Wind Projects less than 5MW;	Agritourism; Public Service Facility; Manufactured and/or Mobile Homes Individually; Mineral Extraction***; Adult Entertainment; Home Occupation; Junk Storage & Sales;

OFFICIAL SCHEDULE OF DISTRICT REGULATIONS				
MINIMUM LOT SIZE EXCLUDING STREET (ROAD) RIGHT-OF-WAY				
	With On-Site Sewage Treatment	With Group or Central Sewage Treatment	Lot Frontage/ Width	Depth:Width Ratio
	<i>(Square feet)</i>		<i>(feet)</i>	
	5	6	7	8
U-1	87,120	87,120	250	4:1 Lots of more than 10 acres are exempt
R-1	87,120	43,560	250 (150)	4:1 Lots of more than 10 acres are exempt
B-1	87,120	87,120	250	4:1 Lots of more than 10 acres are exempt
M-2	130,680	130,680	250	4:1 Lots of more than 10 acres are exempt

OFFICIAL SCHEDULE OF DISTRICT REGULATIONS											
	MAXIMUM % OF LOT TO BE OCCUPIED	MINIMUM FLOOR AREA	MAXIMUM HEIGHT OF (PRINCIPAL) BUILDINGS		MINIMUM YARD DIMENSIONS			ACCESSORY BUILDINGS			
					(feet)			(feet)			
			Stories	Feet	Front	Side Yards		Rear	Maximum height	Minimum Distance To	
	<i>(Principal and accessory buildings)</i>	<i>(Square feet)</i>				<i>One side yard</i>	<i>Sum of side yards</i>			<i>Side lot line</i>	<i>Rear lot line</i>
	9	10	11	12	13	14	15	16	17	18	19
U-1	25%	1,000*	2.5	35	50	20	40	30	25	10	10
R-1	25%	1,000*	2.5	35	50	20	40	30	25	10	10
B-1	50%	None	3	40	50	20	40	30	25	10	10
M-2	50%	None	3	40	80	25**	50**	40**	25	10	20

Numbers in ( ) are measurements for lots with group or central sewage treatment.

<b>OFFICIAL SCHEDULE OF DISTRICT REGULATIONS</b>				
	<b>MINIMUM (MANDATORY) OFF-STREET PARKING SPACE</b>	<b>MINIMUM (MANDATORY) OFF-STREET LOADING SPACE</b>	<b>SIGNS PERMITTED</b>	<b>OTHER PROVISIONS AND REQUIREMENTS</b>
				<i>(Supplementary regulations, prohibitions, notes, etc.)</i>
	<b>20</b>	<b>21</b>	<b>22</b>	<b>23</b>
<b>U-1</b>	See Article XI	See Article XI	See Article XII	*1,000 ft <sup>2</sup> for manufactured and/or mobile homes;
<b>R-1</b>	See Article XI	See Article XI	See Article XII	
<b>B-1</b>	See Article XI	See Article XI	See Article XII	*For residential structures, refer to R-1 District Regulations;
<b>M-2</b>	See Article XI	See Article XI	See Article XII	*For residential structures, refer to R-1 District Regulations; **Non-residential use cannot be conducted closer than 40 feet from any residential district lot line; ***Extractive use cannot be closer than 500 feet from any residential district;