

**RESOLUTION NO. R24-91**

**A RESOLUTION BY THE TROTWOOD CITY COUNCIL APPROVING THE RENEWAL APPLICATION FOR THE PLACEMENT OF 186.472 ACRES OF LAND, PARCEL NOS. H33 02308 0046 (54.469 ACRES), H33 02305 0009 (75.516 ACRES), H33 02305 0010 (19.898 ACRES), H33 02305 0013 (7.039 ACRES), AND H33 02305 0019 (29.55 ACRES), WHICH PROPERTY IS OWNED BY BRIAN L. GARBER, AND IS LOCATED ON WEST THIRD STREET, OLD DAYTON ROAD, AND NORTH SNYDER ROAD, IN AN AGRICULTURAL TAX DISTRICT IN ACCORDANCE WITH THE FARMLAND PRESERVATION ACT, SECTION 929.02 OF THE OHIO REVISED CODE.**

**WHEREAS**, the Farmland Preservation Act, approved by the Ohio General Assembly in 1982, provides that farmland may be placed in an agricultural tax district in accordance with Chapter 929 of the Ohio Revised Code; and

**WHEREAS**, the City of Trotwood received a renewal application from Brian L. Garber on September 26, 2024, for the placement of property consisting of 186.472 total acres located on West Third Street, Old Dayton Road, and North Snyder Road in such agricultural tax district.

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TROTWOOD, STATE OF OHIO:**

**SECTION I:**

The Trotwood City Council hereby approves the renewal application for placement of property owned by Brian L. Garber as described in the application filed with the City, specifically 186.472 total acres of land, Parcel Nos. H33 02308 0046 (54.469 acres) located at 8591 West Third Street, H33 02305 0009 (75.516 Acres) located at 1315 North Snyder Road, H33 02305 0010 (19.898 Acres) located on North Snyder Road, H33 02305 0013 (7.039 Acres) located at 8517 Old Dayton Road, and H33 02305 0019 (29.55 Acres) located on North Snyder Road, in accordance with the Farmland Preservation Act, which provides a farm owner the following:

- 1) deferment of water, sewer, and electrical assessments,
- 2) limited protection for lawsuits alleging nuisance, and
- 3) limited protection from eminent domain proceedings.

**SECTION II:**

The placement of real property in an agricultural tax district does not change the current zoning of the property.

TROTWOOD, OHIO 45426

3035 OLIVE ROAD

CITY OF TROTWOOD

**SECTION III:**

This Resolution shall take effect and be in force from and after the date of its passage.


Passed this 7th day of October, 2024.

ATTEST:

APPROVED:

  
KARA B. LANDIS  
CLERK OF COUNCIL

  
YVETTE F. PAGE  
MAYOR

  
TYNA R. BROWN  
VICE-MAYOR

**CERTIFICATE OF RECORDING OFFICER**

I, the undersigned, hereby certify that the foregoing is a true and correct copy of Resolution No. R24-91 adopted by the Trotwood City Council at a regular scheduled meeting held on the 7th day of October, 2024, and that I am duly authorized to execute this certificate.

Signed this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
CLERK OF COUNCIL

App # 568A

New Application  
Renewal Application

APPLICATION FOR PLACEMENT OF  
FARMLAND IN AN AGRICULTURAL DISTRICT  
(O.R.C. Section 929.02)

(See page 4 for General Information regarding this Application)

RECEIVED  
SEP 26 2024

**INSTRUCTIONS FOR COMPLETING APPLICATION**

Print or type all entries.

- o List description of land as shown on the most recent tax statement or statements. Show total number of acres.
- o Describe location of property by roads, etc., and taxing district where located.
- o State whether any portion of land lies within a municipal corporation.  
**Note:** See "Where to File" on page 4 to be sure that a copy of this Application is also filed with the Clerk of the municipal legislative body as well as the County Auditor.
- o A renewal application must be submitted after the first Monday in January and prior to the first Monday in March of the year in which the agricultural district terminates for the land to be continued in this program.
- o If the acreage totals 10 acres or more, do not complete Part D.
- o If the acreage totals less than 10 acres, complete either D (1) or (2).
- o Do not complete page 3. This space to be completed by the County Auditor and/or Clerk of the municipal legislative body.

A. **Owner's Name:** Brian Garber & Brian Garber & Kathy Garber

**Owner's Address:** 8591 West Third St., New Lebanon, Ohio 45345

**Owner's Email (optional):** <sup>1</sup>

**Description of Land as Shown on Property Tax Statement:** 5-4-32 & 5-4-29

**Location of Property:**  
Street or Road- W Third  
County- Montgomery

TAX DISTRICT(S)	PARCEL NUMBER(S)	# of Acres
Trotwood - Trotwood CSO	H3302308 off to 8591 W 3rd	54.419 Brian L
" "	H33-23-5-9 1315 N Snyder Rd	25.516
" "	H33-23-5-9 1315 N Snyder Rd ✓	19.898
" "	H33-23-5-1-3 8517 Old Dayton Rd	7.039
" "	H33-23-5-19 N Snyder Rd ✓	29.55
<b>Total Number of Acres</b>		136.472 ✓

B. Does any of the land lie within a municipal corporation limit or subject to pending annexation?  
Yes  No

**If YES, REMEMBER a copy of this application must be submitted to the Clerk of the municipal legislative body.**

<sup>1</sup> Enter the "internet identifier record" typically know as an electronic mail address, or any other designation used for self-identification or routing in internet communication or posting, provided for the purpose of receiving communication.

C. Is the land presently being taxed at its current agricultural use valuation under Section 5713.31 of the Ohio Revised Code? Yes  No

If NO, complete the following showing how the land was used the past three years:

	<u>ACRES</u>		
	LAST YEAR	TWO YEARS AGO	THREE YEARS AGO
Cropland			
Permanent Pasture used for animal husbandry			
Woodland devoted to commercial timber and nursery stock			
Land Retirement or Conservation Program pursuant to an agreement with a federal agency			
Building areas devoted to agricultural production			
Roads, building areas, and all other areas not used for agricultural production			
<b>Total Acres</b>			

D. Does the land for which the application is being made total 10 acres or more devoted exclusively to agricultural production or 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? Yes  No

If NO, complete the following:

1. Attach evidence of the gross income for each of the past 3 years, if the average yearly income from agricultural production was at least twenty-five hundred (\$2,500.00) dollars or more, or
2. If the owner anticipates that the land will produce an annual gross income of twenty-five hundred (\$2,500.00) dollars or more, evidence must be attached showing the anticipated gross income.

**Authorization and Declaration**

By signing this application, I authorize the county auditor or his duly appointed agent to inspect the property described above to verify the accuracy of this application. I declare this application (including accompanying exhibits) has been examined by me and to the best of my knowledge and belief is a true, accurate and correct application. I understand that land removed from this program before the 5-year enrollment period is subject to penalty, in accordance with Section 929.02(D) of the Ohio Revised Code.

**Signature of Owner:**

*Binan Garber*

**Date:**

9-23-24

DO NOT COMPLETE FOR OFFICIAL USE ONLY

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CAUV Application No. \_\_\_\_\_

**Action of County Auditor**

Application Approved \_\_\_\_\_ Rejected \_\_\_\_\_ \*

Date Application Filed with County Auditor \_\_\_\_\_

Date Filed (if required) with Clerk of Municipal Corporation \_\_\_\_\_

County Auditor's Signature \_\_\_\_\_ Date \_\_\_\_\_

Date Decision Mailed and Emailed<sup>1</sup> to Applicant \_\_\_\_\_

Email Address<sup>1</sup> \_\_\_\_\_

**OR**

Date Decision Sent Certified Mail to Applicant \_\_\_\_\_

Certified Mail No. \_\_\_\_\_  
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**Action of Legislative Body of Municipal Corporation**

Application Approved \_\_\_\_\_ Approved with Modifications \_\_\_\_\_ \* Rejected \_\_\_\_\_ \*

Date Application Filed with Clerk \_\_\_\_\_

Date of Public Hearing \_\_\_\_\_

Date of Legislative Action \_\_\_\_\_

Clerk's Signature \_\_\_\_\_ Date \_\_\_\_\_

Date Decision Mailed and Emailed<sup>1</sup> to Applicant \_\_\_\_\_

Email Address<sup>1</sup> \_\_\_\_\_

**OR**

Date Decision Sent Certified Mail to Applicant \_\_\_\_\_

Certified Mail No. \_\_\_\_\_

\* IF MODIFIED OR REJECTED, ATTACH SPECIFIC REASONS FOR MODIFICATION OR REJECTION

<sup>1</sup> Enter the "internet identifier record" typically know as an electronic mail address, or any other designation used for self-identification or routing in internet communication or posting, provided for the purpose of receiving communication.

## INFORMATION FOR PLACEMENT OF FARMLAND IN AN AGRICULTURAL DISTRICT

### A. WHO MAY FILE?

Any owner of land used for agricultural production may file an application to have the land placed in an agricultural district.

### B. WHERE TO FILE

The completed application must be filed with the auditor of the county where the land is located. The applicant will be notified of action taken by the county auditor within 30 days of the filing of the application if the land is not within a municipal corporation or an annexation petition has not been filed. If the land for which an application has been made lies within a municipal corporation limit or if an annexation petition that includes the land has been filed with the Board of County Commissioners under Section 709.02 of the Ohio Revised Code, a copy of the application must also be filed with the Clerk of the legislative body of the municipal corporation. The legislative body is required to conduct a public hearing on the application within 30 days after the application has been filed with the Clerk. Within 30 days of the hearing, the legislative body may approve the application, modify and approve the application as modified, or reject the application.

### C. WHEN TO FILE AND RENEWAL

The original application may be filed at any time for placement of land in an agricultural district for a five-year period. If at the end of five years, the owner decides to keep some or all of his or her land in a district, he or she shall submit a renewal application and must meet the same land requirements and use the same application process as the original application. The renewal application may be filed at any time after the first Monday in January and prior to the first Monday in March of the year during which an agricultural district terminates, for a period of time ending on the first Monday in April of the fifth year following the renewal application.

### D. WHAT IS "LAND USED FOR AGRICULTURAL PRODUCTION?"

In accordance with Section 929.01(A) of the Revised Code, land is devoted to "agricultural production" when it is used for commercial aquaculture, apiculture, animal husbandry, poultry husbandry; the production for a commercial purpose of field crops, tobacco, fruits, vegetables, timber, nursery stock, ornamental shrubs, ornamental trees; flowers or sod; 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 any combination of such husbandry, production, or growth; and includes the processing, drying, storage and marketing of agricultural products when those activities are conducted in conjunction with such husbandry, production, or growth.

"Agricultural production" includes conservation practices provided that the tracts, lots, or parcels of the land or portions thereof that are used for conservation practices comprise not more than twenty-five percent of tracts, lots, or parcels of land that are otherwise devoted exclusively to agricultural use and for which an application is filed.

"Conservation practices" are practices used to abate soil erosion as required in the management of the farming operation, and include, but are not limited to, the installation, construction, development, planting, or use of grass waterways, terraces, diversions, filter strips, field borders, windbreaks, riparian buffers, wetlands, ponds, and cover crops for that purpose.

### E. WHAT DOES "TRACTS, LOTS, OR PARCELS OF LAND" MEAN?

Tracts, lots, or parcels mean distinct portions of pieces of land (not necessarily contiguous) where the title is held by one owner, as listed on the tax list and duplicate of the county, is in agricultural production and conforms with the requirements of either D1, D2, or D3 below.

### F. ARE THERE ANY OTHER REQUIREMENTS?

1. The land for which the application is made must have been used exclusively for agricultural production or devoted to and qualified for payments or other compensation under a land retirement or conservation program under an agreement with a federal agency for the three consecutive calendar years prior to the year in which application is made. Evidence must be shown on the application. If the land contains timber which is not being grown for commercial purposes the land on which the timber is growing must be contiguous to or part of a parcel under common ownership that is otherwise devoted exclusively to agricultural use.
2. If the total amount of land for which application is made is less than 10 acres, there is an additional requirement that the applicant submit evidence with his application that the activities conducted on the land have produced an average yearly gross income of at least twenty-five hundred dollars over the three years immediately preceding the year in which application is made or that the land will produce an anticipated annual gross income of that amount.
3. Evidence of annual gross income may be satisfied by attaching to the application form a short statement stating the number of animals by species and anticipated market value, number of acres of crops to be grown, their expected yield and price per bushel or similar specific information.

### G. IS THERE A PENALTY FOR EARLY WITHDRAWAL?

Land removed from this program before the 5-year enrollment period is subject to penalty, per Section 929.02(D) of the Ohio Revised Code. See County Auditor's Office for details on how the amount of the withdrawal penalty is determined.

### H. APPEAL OF APPLICATION

The applicant may appeal the denial of the application to the court of common pleas of the county in which the application was filed within thirty days of the receipt of the notice denying the application. When the land lies within a municipality the applicant may also appeal a decision to modify or reject an application to the court of common pleas of the county in which the application was filed within thirty days of the receipt of the notice of modification or rejection. In addition, the applicant may withdraw an application modified by a legislative body if he or she disapproves of the modifications.