

**CLEAN OHIO LAW**  
**Green Space Conservation Program**

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**164.20 Natural resource project definitions.**

(A) Notwithstanding section 164.01 of the Revised Code, as used in sections 164.20 to 164.27 of the Revised Code, “local political subdivision” means a county, municipal corporation, township, conservancy district, soil and water conservation district, joint recreation district, park district, or other similar park authority.

(B) As used in sections 164.20 to 164.27 of the Revised Code, “nonprofit organization” means an organization that is exempt from federal income taxation pursuant to 26 U.S.C. 501(a) and described in 26 U.S.C. 501(c) and that has as one of its designated activities, as indicated on United States internal revenue service form 1023 “recognition of exemption,” an activity that is directly related to the purposes for which grants may be issued under sections 164.20 to 164.27 of the Revised Code as described in divisions (A) and (B) of section 164.22 of the Revised Code.

(C) For the purposes of sections 164.20 to 164.27 of the Revised Code, the definition of “project” in section 164.01 of the Revised Code does not apply.

Effective Date: 07-26-2001

**164.21 Natural resources assistance councils.**

(A) Each district public works integrating committee or, if applicable, the executive committee of the integrating committee shall appoint a natural resources assistance council consisting of eleven members. Of the eleven members, one shall be a member of the appointing integrating committee and one shall represent a soil and water conservation district that is located within the geographical jurisdiction of the appointing integrating committee. The nine other members of the council shall be appointed from the following categories of organizations, units of government, or agencies and shall include at least one member from each of those categories:

(1) A county, municipal corporation, township, conservancy district, regional or joint district or unit of local government, or regional or joint political subdivision that is located within the geographical jurisdiction of the appointing integrating committee;

(2) A conservation organization, an environmental advocacy organization, an organization with a primary interest in watershed protection and restoration, the department of natural resources, the environmental protection agency, or the United States natural resources conservation service;

(3) A city park system or metropolitan park system or a board of park commissioners from a county that is located within the geographical jurisdiction of the appointing integrating committee, a statewide parks and recreation organization, or the United States national park service;

(4) A statewide organization representing agriculture, an organization representing forestry interests, the department of agriculture, or the United States department of agriculture;

(5) An organization representing business, local realtors, or a planning agency, including a port authority, located within the geographical jurisdiction of the appointing integrating committee.

No organization, unit of government, or agency that is listed in divisions (A)(1) to (5) of this section shall be represented by more than one member on the council at any given time. The membership of a natural resources assistance council shall reflect the demographic and economic diversity of the population located within the geographical area represented by the council.

A council shall be appointed by the appropriate integrating committee not later than ninety days after the effective date of this section. Of the initial members appointed to the council, four shall be appointed for one year, four shall be appointed for two years, and three shall be appointed for three years. Thereafter, terms of office for members of the council shall be for three years, with each term ending on the same day of the same month as did the term that it succeeds. Each member shall hold office from the date of appointment until the end of the term for which the member is appointed, except that, with respect to any member who is an elected or appointed official of a township, municipal corporation, or county, the term of office for that person on the council shall not extend beyond the member's term as an elected or appointed official.

Members may be reappointed. Vacancies shall be filled in the same manner provided for original appointments. Any member appointed to fill a vacancy occurring prior to the expiration date of the term for which the member was appointed shall hold office for the remainder of that term. A member shall continue in office subsequent to the expiration date of the member's term until the member's successor takes office or until a period of sixty days has elapsed, whichever occurs first. Members may be removed by the district public works integrating committee for misfeasance, malfeasance, or nonfeasance in office.

(B) A natural resources assistance council shall elect a chairperson, a vice-chairperson, and other officers that the council considers appropriate. A council may adopt bylaws governing its operation, including bylaws that establish the frequency of regular meetings and any necessary procedures. All meetings of a council are subject to section 121.22 of the Revised Code.

(C) Serving as a member of a natural resources assistance council under this section does not constitute holding a public office or position of employment under the laws of this state and does not confer a right to compensation from any agency of this state. A member of a natural resources assistance council does not have an unlawful interest in a public contract under section 2921.42 of the Revised Code solely by virtue of the receipt of financial assistance under sections 164.20 to 164.27 of the Revised Code by the local political subdivision of which the member is also a public official or appointee.

(D) Sections 101.82 to 101.87 of the Revised Code do not apply to natural resources assistance councils.

Effective Date: 07-26-2001

#### **164.22 Open space acquisition and related development projects.**

Natural resources assistance councils shall review and approve or disapprove applications in accordance with sections 164.20 to 164.27 of the Revised Code for grants for projects that propose to do any of the following:

(A) Provide for open space acquisition, including the acquisition of easements, or the related development of open spaces acquired with a grant awarded under sections

164.20 to 164.27 of the Revised Code. Open space acquisition projects include acquisition of land or rights in land for parks, forests, wetlands, natural areas that protect an endangered plant or animal population, other natural areas, and connecting corridors for natural areas. Related development projects include projects for the construction or enhancement of facilities that are necessary to make an open space area accessible and useable by the general public. Projects proposed pursuant to division (A) of this section shall emphasize the following:

- (1) The support of comprehensive open space planning and incorporation of aesthetically pleasing and ecologically informed design;
- (2) The enhancement of economic development that relies on recreation and ecotourism in areas with relatively high unemployment and lower incomes;
- (3) The protection of habitat for rare, threatened, and endangered species or the preservation of high quality, viable habitat for plant and animal species;
- (4) The preservation of existing high quality wetlands or other scarce natural resources within the geographical jurisdiction of the council;
- (5) The enhancement of educational opportunities and provision of physical links to schools and after-school centers;
- (6) The preservation or restoration of water quality, natural stream channels, functioning floodplains, wetlands, streamside forests, and other natural features that contribute to the quality of life in this state and to the state's natural heritage. Projects shall not include hydromodification projects such as dams, dredging, sedimentation, and bank clearing and shall not accelerate untreated water runoff or encourage invasive nonnative species.
- (7) The reduction or elimination of nonnative, invasive species of plants or animals;
- (8) The proper management of areas where safe fishing, hunting, and trapping may take place in a manner that will preserve a balanced natural ecosystem.

(B) Protect and enhance riparian corridors or watersheds, including the protection and enhancement of streams, rivers, lakes, and other waters of the state. Such projects may include, without limitation, the reforestation of land or the planting of vegetation for filtration purposes; the fee simple acquisition of lands for the purpose of providing access to riparian corridors or watersheds or for other purposes necessary for the protection and enhancement of riparian corridors or watersheds; and the acquisition of easements for the purpose of protecting and enhancing riparian corridors or watersheds. Projects proposed pursuant to division (B) of this section shall emphasize the following:

- (1) The increase of habitat protection;
- (2) Inclusion as part of a stream corridor-wide or watershed-wide plan;
- (3) The provision of multiple recreational, economic, and aesthetic preservation benefits;
- (4) The preservation or restoration of floodplain and streamside forest functions;
- (5) The preservation of headwater streams;

(6) The restoration and preservation of aquatic biological communities.

Projects shall not initiate or perpetuate hydromodification projects such as dams, ditch development, or channelization.

Grant moneys may be used for preliminary costs related to projects that are eligible for funding under this section, including planning costs, design costs, engineering costs, costs of appraisals, environmental assessments, and archaeological surveys.

Amended by 131st General Assembly, SB 310, eff. 8/16/2016.

Effective Date: 05-30-2002

**164.23 Application for grant for open space acquisition project.**

(A) An entity seeking a grant for a project that is eligible for funding under section 164.22 of the Revised Code shall submit an application to the natural resources assistance council with geographical jurisdiction over the proposed project area. Entities that are eligible for funding are limited to local political subdivisions and nonprofit organizations. The director of the Ohio public works commission shall develop the form of the application and shall provide application forms to each council. The application shall require at least all of the following:

(1) An identification of the local political subdivision or nonprofit organization that is responsible for the execution and completion of the proposed project;

(2) A detailed description of the proposed project;

(3) An identification of the areas that are proposed to be protected, restored, preserved, or constructed;

(4) Detailed information concerning the practices and procedures that will be undertaken to complete the project;

(5) A formal detailed estimate of the project's cost;

(6) The amount and nature of the moneys or resources to be used as matching funds for the project. Matching funds shall constitute not less than twenty-five per cent of the total cost of the project and may consist of contributions of money by any person, any local political subdivision, or the federal government or of contributions in-kind by such parties through the purchase or donation of equipment, land, easements, labor, or materials necessary to complete the project.

(7) An identification of any participation by state agencies that may have expertise regarding the particular project and that may provide assistance with respect to the project;

(8) Information concerning the coordination of the project among local political subdivisions, state agencies, federal agencies, community organizations, conservation organizations, and local business groups;

(9) Information about any coordination that the project will have with projects being undertaken under the jurisdiction of other natural resources assistance councils throughout the state under

sections 164.20 to 164.27 of the Revised Code or with projects being undertaken under sections 122.65 to 122.658 of the Revised Code;

(10) Information about public participation in the planning and execution of the project;

(11) Information about whether the general public will be given access to the project area upon the completion of the project;

(12) A timetable for completion of the proposed project.

(B) In addition to the application required under division (A) of this section, an applicant for a grant for a project shall include with the application all of the following:

(1) Except as otherwise provided in division (C) of this section, a copy of a resolution supporting the project from each county in which the proposed project is to be conducted and whichever of the following is applicable:

(a) If the proposed project is to be conducted wholly within the geographical boundaries of one township, a copy of a resolution supporting the project from the township;

(b) If the proposed project is to be conducted wholly within the geographical boundaries of one municipal corporation, a copy of a resolution supporting the project from the municipal corporation;

(c) If the proposed project is to be conducted in more than one, but fewer than five townships or municipal corporations, a copy of a resolution supporting the project from at least one-half of the total number of townships and municipal corporations in which the proposed project is to be conducted;

(d) If the proposed project is to be conducted in five or more townships or municipal corporations, a copy of a resolution supporting the project from at least three-fifths of the total number of townships and municipal corporations in which the proposed project is to be conducted.

However, if the applicant is a county and the proposed project is to be located wholly within the geographical boundaries of the county, the applicant shall not be required to include a copy of a resolution from any township or municipal corporation. If the applicant is a municipal corporation and the proposed project is to be located wholly within the geographical boundaries of the municipal corporation, the applicant shall not be required to include a copy of a resolution from the county in which it is located. If the applicant is a township and the proposed project is to be located wholly within the geographical boundaries of the township, the applicant shall not be required to include a copy of a resolution from the county in which it is located.

(2) Documentation that demonstrates that the applicant has the capacity, financial or otherwise, to complete the project for which the grant is sought and to provide any necessary ongoing maintenance of the project;

(3) Documentation that indicates compliance with division (A) of section 164.26 of the Revised Code related to the long-term ownership or control of the property that is the subject of the grant application.

(C) Prior to submitting an application for a grant for a project under this section, an applicant that is a park district or other similar park authority shall consult with the legislative authority of each county, township, and municipal corporation in which the proposed project will be located.

(D) Upon receipt of an application under division (A) of this section and the information required under division (B) of this section, a council may request additional information concerning the proposed project to which the application and information apply. Upon receiving such a request, the entity proposing the project shall provide the additional information requested.

Effective Date: 05-30-2002

#### **164.24 Reviewing application.**

(A) A natural resources assistance council shall review each application for a grant submitted under section 164.23 of the Revised Code. In reviewing an application and for the purpose of determining whether to approve or disapprove the application, a council shall consider all of the following criteria:

- (1) Whether the project emphasizes the factors specified in division (A) or (B) of section 164.22 of the Revised Code;
- (2) The amount of funding that is necessary for the completion of the project;
- (3) The amount and percentage of the matching funds provided under the proposal;
- (4) The level of coordination among local political subdivisions, state agencies, federal agencies, community organizations, conservation organizations, and local business groups;
- (5) The level of coordination with projects being undertaken under the jurisdiction of other natural resources assistance councils throughout the state under sections 164.20 to 164.27 of the Revised Code or with projects being undertaken under sections 122.65 to 122.658 of the Revised Code;
- (6) The relative economic, social, and environmental benefits that the proposed project will bring to the geographical area represented by the council as compared to other proposed projects;
- (7) Whether the project incorporates more than one purpose for which grant moneys may be used as specified in section 164.22 of the Revised Code;
- (8) Whether the general public will be given access to the project area upon the completion of the project;
- (9) Whether the project will comply with all of the requirements established in sections 164.20 to 164.27 of the Revised Code;
- (10) The readiness of the applicant to proceed with the project;
- (11) Any other factors that are relevant to the project.

(B) A natural resources assistance council shall establish a prioritization and selection methodology system for applications submitted under section 164.23 of the Revised Code. The

methodology shall be submitted to and approved by the director of the Ohio public works commission.

(C) In accordance with the methodology system established and approved under division (B) of this section, a natural resources assistance council shall approve or disapprove an application for a grant submitted to it after consideration of all of the criteria specified in divisions (A)(1) to (11) of this section. If the council approves an application, the council shall submit a copy of the application, along with all accompanying materials, to the Ohio public works commission for final approval or disapproval.

Effective Date: 07-26-2001

#### **164.25 Approving application.**

The director of the Ohio public works commission shall approve applications for grants submitted under sections 164.20 to 164.27 of the Revised Code if all of the following apply:

(A) The approval of the application by the applicable natural resources assistance council was reasonably based on the criteria specified in divisions (A)(1) to (11) of section 164.24 of the Revised Code.

(B) The application for a grant and the proposed project for which the grant is to be used comply with all other requirements established under sections 164.20 to 164.27 of the Revised Code.

(C) The amount of the financial assistance, when added to all other financial assistance provided during the calendar year for projects within the district for which a natural resources assistance council was appointed, does not exceed that district's allocation of money from the clean Ohio conservation fund under section 164.27 of the Revised Code.

Effective Date: 07-26-2001

#### **164.26 Establishing policies for open space acquisition.**

(A) The director of the Ohio public works commission shall establish policies related to the need for long-term ownership, or long-term control through a lease or the purchase of an easement, of real property that is the subject of an application for a grant under sections 164.20 to 164.27 of the Revised Code and establish requirements for documentation to be submitted by grant applicants that is necessary for the proper administration of this division. The policies shall provide for proper penalties, including grant repayment, for entities that fail to comply with the long-term ownership or control requirements established under this division.

The director also shall adopt policies delineating what constitutes administrative costs for purposes of division (F) of section 164.27 of the Revised Code.

(B) The Ohio public works commission shall administer sections 164.20 to 164.27 of the Revised Code and shall exercise any authority and use any procedures granted or established under sections 164.02 and 164.05 of the Revised Code that are necessary for that purpose.

Effective Date: 07-26-2001

**164.27 Clean Ohio conservation fund.**

(A) The clean Ohio conservation fund is hereby created in the state treasury. Seventy-five per cent of the net proceeds of obligations issued and sold by the issuing authority pursuant to sections 151.01 and 151.09 of the Revised Code shall be deposited into the fund. Investment earnings of the fund shall be credited to the fund and may be used to pay costs incurred by the Ohio public works commission in administering sections 164.20 to 164.27 of the Revised Code. Moneys in the clean Ohio conservation fund shall be used to make grants to local political subdivisions and nonprofit organizations for projects that have been approved for grants under sections 164.20 to 164.27 of the Revised Code.

The clean Ohio conservation fund shall be administered by the Ohio public works commission.

(B) For the purpose of grants issued under sections 164.20 to 164.27 of the Revised Code, moneys shall be allocated on an annual basis from the clean Ohio conservation fund to districts represented by natural resources assistance councils as follows:

(1) Each district shall receive an amount that is equal to one-fourth of one per cent of the total annual amount allocated to all districts each year for each county that is represented by the district.

(2) The remaining moneys shall be allocated to each district annually on a per capita basis.

(C) A grant that is awarded under sections 164.20 to 164.27 of the Revised Code may provide up to seventy-five per cent of the estimated cost of a project. Matching funds from a grant recipient may consist of contributions of money by any person, any local political subdivision, or the federal government or of contributions in-kind by such entities through the purchase or donation of equipment, land, easements, interest in land, labor, or materials necessary to complete the project.

(D) The director of the Ohio public works commission shall notify the director of budget and management of the amounts allocated pursuant to this section, and that information shall be entered in the state accounting system. The director of budget and management may establish appropriate line items or other mechanisms that are needed to track the allocations.

(E) Grants awarded under sections 164.20 to 164.27 of the Revised Code from the clean Ohio conservation fund shall be used by a local political subdivision or nonprofit organization only to pay the costs related to the purposes for which grants may be issued under section 164.22 of the Revised Code and shall not be used by a local political subdivision or nonprofit organization to pay any administrative costs incurred by the local political subdivision or nonprofit organization.

Effective Date: 09-26-2003