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TITLE: Incorporation of Use Restrictions into an Operation & Maintenance Agreement when not recorded on a deed

KEYWORDS: Deed Restriction, Operation & Maintenance Agreement, Use Restriction

QUESTION: Must a use restriction be recorded on a deed?

ANSWER: No. A use restrictions does not have to be recorded on a deed to a property. However, non-deed restrictions must be recorded and must also have an Operation & Maintenance Agreement to ensure continued compliance with the use restrictions as well as maintaining its protectiveness (see ORC 3746.14 and OAC 3745-300-15(A)(2)(a) and (F).

SUMMARY: If the use restriction is not recorded on the deed, then there must be an O&M Agreement and the restriction must still be recorded.

OHIO EPA CONTACT: For any questions concerning this issue, please contact the VAP central office at (614) 644-2924.