

CHAPTER 40A

AGRICULTURAL LAND PRESERVATION PROGRAM

40A.01	State agricultural land preservation policy.	40A.10	Application for creation of exclusive agricultural use zone.
40A.02	Definitions.	40A.11	Duration of exclusive agricultural use zone.
40A.03	Pilot county agricultural land preservation.	40A.12	Protection for normal agricultural practices.
40A.04	Statewide agricultural land preservation.	40A.13	Soil conservation practices.
40A.05	Elements of plan and official controls.	40A.14	Agricultural land preservation and conservation awareness program.
40A.06	Contested case hearings; judicial review.	40A.15	Agricultural land preservation and conservation assistance program.
40A.07	Municipal agricultural land preservation.	40A.16	Interagency cooperation.
40A.08	State planning agency; regional development commissions.	40A.17	Report.
40A.09	Exclusive agricultural use zone; eligibility.		

40A.01 STATE AGRICULTURAL LAND PRESERVATION POLICY.

Subdivision 1. **Goals.** The goals of this chapter are to:

(1) preserve and conserve agricultural land for long-term agricultural use in order to protect the productive natural resources of the state, maintain the farm and farm-related economy of the state, and assure continued production of food and other agricultural products;

(2) preserve and conserve soil and water resources; and

(3) encourage the orderly development of rural and urban land uses.

Subd. 2. **Methods.** The goals contained in subdivision 1 will be best met by combining state policies and guidelines with local implementation and enforcement procedures and private incentives.

History: 1984 c 654 art 3 s 31

40A.02 DEFINITIONS.

Subdivision 1. **Terms defined.** As used in this chapter, the terms defined in this section have the meanings given them.

Subd. 2. **Agency.** "Agency" means the state planning agency.

Subd. 3. **Agricultural use.** "Agricultural use" means the production of live-stock, dairy animals, dairy products, poultry or poultry products, fur bearing animals, horticultural or nursery stock, fruit, vegetables, forage, grains, or bees and apiary products. "Agricultural use" also includes wetlands, pasture, forest land, wildlife land, and other uses that depend on the inherent productivity of the land.

Subd. 4. **Board.** "Board" means the state soil and water conservation board.

Subd. 5. **Commissioner.** "Commissioner" means the commissioner of agriculture.

Subd. 6. **Crop equivalent rating.** "Crop equivalent rating" means a rating that reflects the net economic return per acre of soil when managed for cultivated crops, permanent pasture, or forest, whichever provides the highest net return.

Subd. 7. **Department.** "Department" means the department of agriculture.

Subd. 8. **Development.** "Development" means the subdivision and partitioning of land or the construction of residences on land or the conversion to competing land uses.

Subd. 9. **District.** "District" means a soil and water conservation district.

Subd. 10. **Exclusive agricultural use zone.** "Exclusive agricultural use zone" or "zone" means a zone created under this chapter.

Subd. 11. **Forest land.** "Forest land" has the meaning given in section 88.01, subdivision 7.

Subd. 12. **Local government.** "Local government" means a county or municipality.

Subd. 13. **Metropolitan area.** "Metropolitan area" has the meaning given in section 473.121, subdivision 2.

Subd. 14. **Municipality.** "Municipality" means a statutory or home rule charter city or town.

Subd. 15. **Official controls.** "Official controls" or "controls" has the meaning given in section 462.352, subdivision 15.

Subd. 16. **Soil survey.** "Soil survey" means the comprehensive inventory and classification of soil types being conducted by the Minnesota cooperative soil survey.

History: 1984 c 654 art 3 s 32

40A.03 PILOT COUNTY AGRICULTURAL LAND PRESERVATION.

Subdivision 1. **Pilot counties; selection.** By January 1, 1985, the commissioner, in consultation with counties and regional development commissions, where they exist, shall select not more than seven counties located outside of the metropolitan area that request to participate in a pilot program for county agricultural land preservation. If possible, counties shall include:

(1) a county that currently has official controls for agricultural land preservation and an adjacent county that does not have official controls;

(2) a county that is experiencing problems with forest land preservation;

(3) a county where a high level of development is likely to occur in the next ten years; and

(4) other counties representing a cross-section of agricultural uses and land management problems in the state.

Subd. 2. **Plans and official controls.** By January 1, 1987, each pilot county selected under subdivision 1 shall submit to the commissioner and to the regional development commission in which it is located, if one exists, a proposed agricultural land preservation plan and proposed official controls implementing the plan. The commissioner, in consultation with the regional development commission, shall review the plan and controls for consistency with the elements in this chapter and shall submit written comments to the county within 90 days of receipt of the proposal. The comments must include a determination of whether the plan and controls are consistent with the elements in this chapter. The commissioner shall notify the county of its determination. If the commissioner determines that the plan and controls are consistent, the county shall adopt the controls within 60 days of completion of the commissioner's review.

History: 1984 c 654 art 3 s 33

40A.04 STATEWIDE AGRICULTURAL LAND PRESERVATION.

Subdivision 1. **Counties.** Each county with a completed county soil survey, except for counties in the metropolitan area, may submit to the commissioner and to the regional development commission in which it is located, if one exists, a proposed agricultural land preservation plan and proposed official controls implementing the plan. The remaining counties located outside of the metropolitan area may submit a proposed plan and proposed controls. To the extent practicable, submission of the

proposal must coincide with the completion of the county soil survey. The commissioner, in consultation with the regional development commission, shall review the plan and controls for consistency with the elements in this chapter and shall submit written comments to the county within 90 days of receipt of the proposal. The comments must include a determination of whether the plan and controls are consistent with the elements in this chapter. The commissioner shall notify the county of its determination. If the commissioner determines that the plan and controls are consistent, the county shall adopt the controls within 60 days of completion of the commissioner's review.

Subd. 2. Nonmetropolitan city. A city that is located partially within a county in the metropolitan area but is not included in the definition of the metropolitan area may elect to be governed by this section. The city may:

(1) request the county outside of the metropolitan area where it is partially located to include the city in the agricultural land preservation plan and official controls of the county, using the joint planning board process under section 462.3585; or

(2) perform the duties of a county independently under this section.

If the city does not elect to be governed by this section, the city shall perform the duties of an authority under chapter 473H.

History: 1984 c 654 art 3 s 34

40A.05 ELEMENTS OF PLAN AND OFFICIAL CONTROLS.

Subdivision 1. General. The plans and official controls prepared under this chapter must address the elements contained in this section.

Subd. 2. Plan. A plan must address at least the following elements:

(1) integration with comprehensive county plans;

(2) identification of land currently in agricultural use, including the type of agricultural use, the relative productive value of the land based on the crop equivalent rating, and the existing level of investment in buildings and equipment;

(3) identification of areas in which development is occurring or is likely to occur during the next 20 years;

(4) identification of existing and proposed public sanitary sewer and water systems;

(5) classification of land suitable for long-term agricultural use and its current and future development;

(6) determination of present and future housing needs representing a variety of price and rental levels and an identification of areas adequate to meet the demonstrated or projected needs; and

(7) a general statement of policy as to how the county will achieve the goals of this chapter.

Subd. 3. Official controls. Official controls implementing a plan must be consistent with the plan and must address at least the following elements:

(1) designation of land suitable for long-term agricultural use and the creation of exclusive agricultural use zones, allowing for conditional, compatible uses that do not conflict with long-term agricultural use;

(2) designation of urban expansion zones where limited growth and development may be allowed;

(3) residential density requirements and minimum lot sizes in exclusive agricultural use zones and urban expansion zones; and

(4) standards and procedures for county decisions on rezoning, subdivision, and parcel divisions.

History: 1984 c 654 art 3 s 35

40A.06 CONTESTED CASE HEARINGS; JUDICIAL REVIEW.

If a county or a municipality in the county disputes the determination of the commissioner relating to the elements under this chapter, the county or municipality may request that the commissioner initiate a contested case proceeding under chapter 14 within 30 days after receiving the determination. In addition, ten or more eligible voters of the county who own real estate within the county may request a contested case proceeding. The commissioner shall initiate the proceeding within 30 days after receiving the request. Judicial review of the contested case decision is as provided in chapter 14.

History: 1984 c 654 art 3 s 36

40A.07 MUNICIPAL AGRICULTURAL LAND PRESERVATION.

Subdivision 1. Failure by county to plan. As of January 1, 1990, if a county has not submitted a proposed agricultural land preservation plan and proposed official controls to the commissioner and the regional development commission, if one exists, a municipality within the county may request by resolution that the county submit a plan and official controls to the commissioner and the regional development commission. If the county does not do so within one year of receipt of the resolution, the municipality may perform the duties of the county with respect to land under its jurisdiction.

Subd. 2. Relationship to other laws. Nothing in this chapter limits a municipality's power to plan or zone under other laws or to adopt official controls that are consistent with or more restrictive than those enacted by the county.

History: 1984 c 654 art 3 s 37

40A.08 STATE PLANNING AGENCY; REGIONAL DEVELOPMENT COMMISSIONS.

The state planning agency shall cooperate with and assist the commissioner in administering the agricultural land preservation program under this chapter. The commissioner may enter into agreements with the agency or a regional development commission under which staff are loaned for the purpose of selecting pilot counties and reviewing plans and official controls for consistency with the state guidelines.

History: 1984 c 654 art 3 s 38

40A.09 EXCLUSIVE AGRICULTURAL USE ZONE; ELIGIBILITY.

An owner or owners of land that has been designated for exclusive long-term agricultural use under a plan submitted to or approved by the commissioner is eligible to apply for the creation of an exclusive agricultural use zone. Eligibility continues unless the commissioner determines that the plan and official controls do not address the elements contained in this chapter or unless the county fails to implement the plan and official controls as required by this chapter.

History: 1984 c 654 art 3 s 39

40A.10 APPLICATION FOR CREATION OF EXCLUSIVE AGRICULTURAL USE ZONE.

Subdivision 1. Contents. An eligible person may apply to the county in which the land is located for the creation of an exclusive agricultural use zone on forms provided by the commissioner. In case a zone is located in more than one county, the application must be submitted to the county in which the majority of the land is located. The application must contain at least the following information and other information the commissioner requires:

- (a) Legal description of the area to be designated and parcel identification numbers where designated by the county auditor;
- (b) Name and address of the owner;
- (c) A witnessed signature of the owner covenanting that the land will be kept in exclusive agricultural use and will be used in accordance with the provisions of this chapter that exist on the date of application; and
- (d) A statement that the restrictive covenant will be binding on the owner or the owner's successor or assignee, and will run with the land.

In the case of registered property, the owner shall submit the owner's duplicate certificate of title along with the application.

Subd. 2. Review and notice. Upon receipt of an application, the county shall determine if all material required by subdivision 1 has been submitted and, if so, shall determine that the application is complete. The county shall send a copy of the application to the regional development commission, where applicable, and the soil and water conservation district where the land is located. The district shall prepare an advisory statement of existing and potential conservation problems in the zone. The district shall send the statement to the owner of record and to the commissioner.

Subd. 3. Recording. Within five days of the date of application, the county shall forward the application to the county recorder, together with the owner's duplicate certificate of title in the case of registered property. The county recorder shall record the restrictive covenant and return it to the applicant. In the case of registered property, the recorder shall memorialize the restrictive covenant upon the certificate of title and the owner's duplicate certificate of title. The recorder shall notify the county that the covenant has been recorded or memorialized.

Subd. 4. Commencement of exclusive agricultural use zone. The land is an exclusive agricultural use zone and subject to the benefits and restrictions of this chapter commencing 30 days from the date the county determines the application is complete under subdivision 1.

Subd. 5. Fee. The county may require an application fee, not to exceed \$50.

History: 1984 c 654 art 3 s 40

40A.11 DURATION OF EXCLUSIVE AGRICULTURAL USE ZONE.

Subdivision 1. General. An exclusive agricultural use zone continues in existence until either the owner or the county initiates expiration as provided in this section. The date of expiration by the owner or the county must be at least eight years from the date of notice under this section.

Subd. 2. Termination by owner. The owner may initiate expiration of an exclusive agricultural use zone by notifying the county on a form prepared by the commissioner and available in each county. The notice must describe the property involved and must state the date of expiration. The notice may be rescinded by the owner during the first two years following notice.

Subd. 3. **Termination by county.** The county may initiate expiration of the exclusive agricultural use zone by notifying the owner by registered mail on a form provided by the commissioner, provided that before notification the following conditions are met:

(a) The agricultural land preservation plan and official controls have been amended so that the land is no longer designated for long-term agricultural use; and

(b) The commissioner has reviewed and approved the amended plan and official controls for consistency with the guidelines contained in this chapter. The notice must describe the property involved and must state the date of expiration.

Subd. 4. **Notice and recording; termination.** When the county receives notice under subdivision 2 or serves notice under subdivision 3, the county shall forward the original notice to the county recorder for recording and shall notify the regional development commission and the county soil and water conservation district of the date of expiration. Designation as an exclusive agricultural use zone and the benefits and limitations contained in this chapter and the restrictive covenant filed with the application cease on the date of expiration. In the case of registered property, the county recorder shall cancel the restrictive covenant upon the certificate of title and the owner's duplicate certificate of title on the effective date of the expiration.

Subd. 5. **Early expiration.** An exclusive agricultural use zone may be terminated earlier than as provided in this section only in the event of a public emergency upon petition from the owner or county to the governor. The determination of a public emergency must be made by the governor through executive order under section 4.035 and chapter 12. The executive order must identify the exclusive agricultural use zone, the reasons requiring the action, and the date of expiration.

History: 1984 c 654 art 3 s 41

40A.12 PROTECTION FOR NORMAL AGRICULTURAL PRACTICES.

Local governments may not enact ordinances or regulations that may restrict or regulate normal agricultural practices within an exclusive agricultural use zone unless the restriction or regulation has a direct relationship to public health and safety. This section applies to the operation of vehicles and machinery for planting, maintaining, and harvesting crops and timber and for caring and feeding farm animals, to the type of farming, and to the design of farm structures, except for residences.

History: 1984 c 654 art 3 s 42

40A.13 SOIL CONSERVATION PRACTICES.

Subdivision 1. **Conservation practices to prevent soil loss required.** An owner of agricultural land in an exclusive agricultural use zone shall manage the land with sound soil conservation practices that prevent excessive soil loss. Soil loss is excessive if it is greater than the soil loss tolerance for each soil type described in the United States soil conservation service field office technical guide or if the soil loss is greater than the soil loss allowed in an ordinance of the county. A sound soil conservation practice prevents excessive soil loss or reduces soil loss to the most practicable extent. The county shall enforce this subdivision.

Subd. 2. **Complaint.** An elected local government official or district board member from the affected jurisdiction may submit a written complaint to the county attorney if conditions exist that indicate there is excessive soil loss from a tract of land that affects another tract of land or body of water. The written complaint must contain the name and address of the landowner, the location of the tract of

land with the excessive soil loss, other land or water that is affected by the excessive soil loss, and a description of the nature of the excessive soil loss and resulting sedimentation. The county attorney may submit the complaint to the district for soil loss determination.

Subd. 3. District determination of soil loss. (a) Upon request by the county attorney the district shall determine the average soil loss in tons per acre per year of the tract of land cited in the complaint.

(b) The district shall submit a report to the county attorney that states the average soil loss in tons per acre per year for each tract of land and if that soil loss exceeds the amounts allowed in subdivision 1. If the soil loss is excessive the report must include the existing management and soil conservation practices and alternative practices that will prevent excessive soil loss or reduce the soil loss to the most practicable extent. If the report shows that the soil loss from the tract of land is excessive and alternative practices are available to reduce the soil loss the county attorney shall submit the complaint and the report to the county board.

(c) The district may enter public or private land to make an inspection for the determination of soil loss or to complete the report. The landowners must be notified of the time of the inspections and be given an opportunity to be present when the inspection is made.

Subd. 4. County board inspection; resolution. (a) Upon receipt of the complaint and district report from the county attorney the county board may make an inspection of the land cited in the complaint to determine if the land is managed properly. The county board may enter public or private land to make an inspection for the determination. The county board must notify landowners of the time of the inspection and give them an opportunity to be present when the inspection is made.

(b) If the county board determines that the land is managed properly the complaint must be dismissed. If the county board determines that the land is not being managed properly the board shall adopt a resolution that describes alternative management practices; requires the owner within one year after receiving the resolution to commence practices or measures to reduce soil loss to the most practicable extent or prevent excessive soil loss, or submit a completed application for cost-sharing funds; and require that the practices or measures must be completed within one year after cost-sharing funds are available, or two years after receiving the resolution, whichever is later. The resolution must be delivered by personal service or certified mail to the landowner cited in the complaint.

Subd. 5. District assistance. At the request of a landowner receiving a resolution under subdivision 4, the district shall assist in the planning, design, and application of practices necessary to reduce soil loss to the amounts allowed in subdivision 1 or to the greatest practicable extent. The district shall give the landowner a high priority for technical and cost-sharing assistance.

History: 1984 c 654 art 3 s 43

40A.14 AGRICULTURAL LAND PRESERVATION AND CONSERVATION AWARENESS PROGRAM.

Subdivision 1. Establishment and administration. An agricultural land preservation and conservation awareness program is created. The commissioner shall administer the program as provided in this section. The purposes of the program are to promote and increase public awareness of:

- (1) the need for agricultural land preservation and conservation and the consequences of resource degradation;

(2) the physical, environmental, and social factors that affect agricultural land use; and

(3) the availability and effectiveness of agricultural land preservation and conservation approaches and technologies.

The commissioner shall administer the program in order to develop a working partnership between the state and local governments.

Subd. 2. Survey. The commissioner shall survey awareness of agricultural land preservation and conservation problems, technologies, and available technical and financial resources. The survey must include:

(1) an assessment of related efforts of the United States department of agriculture, the state soil and water conservation board, the Minnesota association of soil and water conservation districts, and other related public and private organizations;

(2) an assessment of programs in other states; and

(3) an assessment of attitudes among a variety of target audiences in Minnesota that are involved in or affected by land use decisions.

Subd. 3. Public participation. The commissioner shall ensure the participation of a cross-section of the public in developing and promoting programs under this chapter. The commissioner shall actively solicit public involvement in reviewing proposed agricultural land preservation plans and proposed official controls. The commissioner shall assist the public in obtaining information concerning the status of county proposals and the agricultural land preservation and conservation assistance program. The department may form a citizen advisory board to assist it in assessing needs, determining the feasibility of different approaches, and securing applications for assistance and resources in local situations.

History: 1984 c 654 art 3 s 44

40A.15 AGRICULTURAL LAND PRESERVATION AND CONSERVATION ASSISTANCE PROGRAM.

Subdivision 1. Establishment and administration. An agricultural land preservation and conservation assistance program is created to provide technical and financial assistance for agricultural land preservation and conservation activities and to provide assistance to counties and municipalities in preparing agricultural land preservation plans and official controls. The commissioner shall administer the program under rules promulgated under chapter 14. The commissioner shall actively seek the involvement of local government officials in the rulemaking process.

Subd. 2. Eligible recipients. All counties within the state, municipalities that prepare plans and official controls instead of a county, and districts are eligible for assistance under the program. Counties and districts may apply for assistance on behalf of other municipalities. In order to be eligible for financial assistance a county or municipality must agree to levy at least one-half mill on the dollar of assessed value of property within its jurisdiction for agricultural land preservation and conservation activities or otherwise spend the equivalent amount of local money on those activities, or spend \$15,000 of local money, whichever is less.

Subd. 3. Program development. In administering the program the commissioner shall time the promotion of public awareness and the distribution of technical and financial assistance in order to maximize the use of available resources, facilitate the agricultural land preservation process, and promote sound soil conservation practices.

Subd. 4. Financial assistance. The commissioner shall administer grants for up to 50 percent of the cost of the activity to be funded, except that grants to the pilot counties shall be for 100 percent of the cost of preparing new plans and official

MINNESOTA STATUTES 1984

849

AGRICULTURAL LAND PRESERVATION PROGRAM 40A.17

controls required under this chapter. Grants may not be used to reimburse the recipient for activities that are already completed. Grants may be used to employ and train staff, contract with other units of government or private consultants, and pay other expenses related to promoting and implementing agricultural land preservation and conservation activities. The commissioner shall prepare and publish an inventory of sources of financial assistance. To the extent practicable, the commissioner shall assist recipients in obtaining matching grants from other sources.

Subd. 5. Technical assistance. The commissioner shall provide for technical assistance for eligible recipients. The commissioner shall provide model plans and model official controls for the preservation of land for long-term agricultural use that address the elements contained in this chapter. To the extent practicable, the commissioner shall provide technical assistance through existing administrative structures. The commissioner may contract for the delivery of technical assistance by a regional development commission, a district, any state or federal agency, any political subdivision of the state, or private consultants. The commissioner shall prepare and publish an inventory of sources of technical assistance, including studies, publications, agencies, and persons available.

History: 1984 c 654 art 3 s 45

40A.16 INTERAGENCY COOPERATION.

The board, districts, the agency, and the department of natural resources shall cooperate with and assist the commissioner in developing and implementing the agricultural land preservation and conservation awareness and assistance programs. The commissioner may enter into agreements under which staff from those agencies are loaned for the purpose of administering the programs.

History: 1984 c 654 art 3 s 46

40A.17 REPORT.

The commissioner shall report to the legislature on January 1 and July 1 of each year on activities under this chapter. By July 1, 1985, the report must include the survey of public awareness in the awareness program. The report shall include recommendations for funding levels and other necessary legislative action.

History: 1984 c 654 art 3 s 47