

CHAPTER 40A

AGRICULTURAL LAND PRESERVATION PROGRAM

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40A.01 STATE AGRICULTURAL LAND PRESERVATION POLICY.

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

- (1) preserve and conserve agricultural land, including forest 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 timber and agricultural uses;
- (2) preserve and conserve soil and water resources; and
- (3) encourage the orderly development of rural and urban land uses.

[For text of subd 2, see M.S.1984]

History: *1Sp1985 c 13 s 128*

40A.02 DEFINITIONS.

[For text of subs 1 and 2, see M.S.1984]

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, timber, trees, 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.

[For text of subs 4 to 10, see M.S.1984]

Subd. 11. **Forest land.** "Forest land" means land that is at least ten percent stocked by trees of any size and capable of producing timber, or of exerting an influence on the climate or on the water regime; land that the trees described above have been removed from to less than ten percent stocking and that has not been developed for other use; and afforested areas.

[For text of subs 12 to 14, see M.S.1984]

Subd. 15. **Official controls.** "Official controls" or "controls" has the meaning given in section 394.22, subdivision 6.

[For text of subd 16, see M.S.1984]

History: *1Sp1985 c 13 s 129-131*

40A.03 PILOT COUNTY AGRICULTURAL LAND PRESERVATION.

[For text of subd 1, see M.S.1984]

Subd. 2. Plans and official controls. By July 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: 1Sp1985 c 13 s 132

40A.04 STATEWIDE AGRICULTURAL LAND PRESERVATION.

Subdivision 1. Counties. After January 1, 1987, a county located outside of 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. 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. If the commissioner determines that the plan and controls are not consistent, the comments must include the additional elements that must be addressed by the county. The county shall amend its plan and controls to include the additional elements and adopt the amended controls within 90 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 under section 394.32; 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 may perform the duties of an authority under chapter 473H.

History: 1Sp1985 c 13 s 133

40A.05 ELEMENTS OF PLAN AND OFFICIAL CONTROLS.

Subdivision 1. General. The plans and official controls prepared under this chapter must be adopted in accordance with the provisions of chapter 394 or 462 that apply to comprehensive plans and official controls and 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 and municipal plans;
- (2) relationship with shoreland, surface water, and other land use management plans;
- (3) 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;
- (4) identification of forest land;
- (5) identification of areas in which development is occurring or is likely to occur during the next 20 years;
- (6) identification of existing and proposed public sanitary sewer and water systems;
- (7) classification of land suitable for long-term agricultural use and its current and future development;
- (8) 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
- (9) a general statement of policy as to how the county will achieve the goals of this chapter.

[For text of subd 3, see M.S.1984]

History: *1Sp1985 c 13 s 134,135*

40A.06 CONTESTED CASE HEARINGS; JUDICIAL REVIEW.

If a county or a municipality in the county disputes the determination of the commissioner relating to whether the plan and controls address 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: *1Sp1985 c 13 s 136*

40A.07 MUNICIPAL AGRICULTURAL LAND PRESERVATION.

[For text of subd 1, see M.S.1984]

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

Subd. 3. Consistency of municipal plans and controls with county plan. Municipalities shall revise existing plans and official controls to conform with the county approved agricultural land preservation plan and official controls and shall initiate implementation of the revised plans and controls within one year after receiving the county approved agricultural land preservation plan and controls.

History: *1Sp1985 c 13 s 137,138*

40A.071 AMENDED PLAN AND CONTROLS.

A county or municipality that has adopted a plan and official controls under this chapter may amend the plan and controls under the initial review procedure contained in section 40A.04.

History: *1Sp1985 c 13 s 139*

40A.121 ANNEXATION PROCEEDINGS.

Subdivision 1. **Annexation prohibited.** Land within an exclusive agricultural use zone that is within a township may not be annexed to a municipality under chapter 414, unless the Minnesota municipal board finds that either:

(1) the owner or the county has initiated termination of the zone under section 40A.11;

(2) because of size, tax base, population or other relevant factors, the township would not be able to provide normal governmental functions and services; or

(3) the zone would be completely surrounded by lands within a municipality.

Subd. 2. **Exception.** This section does not apply to annexation agreements approved by the Minnesota municipal board prior to creation of the zone.

History: *1Sp1985 c 13 s 140*

40A.122 EMINENT DOMAIN ACTIONS.

Subdivision 1. **Applicability.** An agency of the state, a public benefit corporation, a local government, or any other entity with the power of eminent domain under chapter 117, except a public utility as defined in section 216B.02, a municipal electric or gas utility, a municipal power agency, a cooperative electric association organized under chapter 308, or a pipeline operating under the authority of the Natural Gas Act, United States Code, title 15, sections 717 to 717z, shall follow the procedures in this section before:

(1) acquiring land or an easement in land with a total area over ten acres within an exclusive agricultural use zone; or

(2) advancing a grant, loan, interest subsidy, or other funds for the construction of dwellings, commercial or industrial facilities, or water or sewer facilities that could be used to serve structures in areas that are not for agricultural use, that require an acquisition of land or an easement in an exclusive agricultural zone.

Subd. 2. **Notice of intent.** At least 60 days before an action described in subdivision 1, notice of intent must be filed with the environmental quality board containing information and in the manner and form required by the environmental quality board. The notice of intent must contain a report justifying the proposed action, including an evaluation of alternatives that would not affect land within an exclusive agricultural use zone.

Subd. 3. **Review and order.** The environmental quality board, in consultation with affected local governments, shall review the proposed action to determine its effect on the preservation and enhancement of agriculture and agricultural uses within the zone and the relationship to local and regional comprehensive plans. If the environmental quality board finds that the proposed action might have an unreasonable effect on a zone, the environmental quality board shall issue an order within the 60-day period under subdivision 2 for the party to refrain from the proposed action for an additional 60 days.

Subd. 4. **Public hearing.** During the additional 60 days, the environmental quality board shall hold a public hearing concerning the proposed action at a place

within the affected zone or easily accessible to the zone. Notice of the hearing must be published in a newspaper having a general circulation within the area of the zone. Individual written notice must be given to the local governments with jurisdiction over the zone, the agency, corporation or government proposing to take the action, the owner of land in the zone, and any public agency having the power of review or approval of the action.

Subd. 5. **Joint review.** The review process required in this section may be conducted jointly with any other environmental impact review by the environmental quality board.

Subd. 6. **Suspension of action.** The environmental quality board may suspend an eminent domain action for up to one year if it determines that the action is contrary to the purposes of this chapter and that there are feasible and prudent alternatives that may have a less negative impact on a zone.

Subd. 7. **Termination of zone.** Designation as an exclusive agricultural use zone and all benefits and limitations under this chapter, including the restrictive covenant for the portion of the zone taken, ends on the date the final certificate is filed with the clerk of district court under section 117.205.

Subd. 8. **Action by attorney general.** The environmental quality board may request the attorney general to bring an action to enjoin an agency, corporation or government from violating this section.

Subd. 9. **Exception.** This section does not apply to an emergency project that is immediately necessary for the protection of life and property.

History: *1Sp1985 c 13 s 141*

40A.123 LIMITATION ON CERTAIN PUBLIC PROJECTS.

Subdivision 1. **Projects and assessments prohibited; exception.** Notwithstanding any other law, construction projects for public sanitary sewer systems, public water systems, and public drainage systems are prohibited in exclusive agricultural use zones. New connections between land or buildings in a zone and public projects are prohibited. Land in a zone may not be assessed for public projects built in the vicinity of the zone.

Subd. 2. **Exception; owner option.** Subdivision 1 does not apply to public projects necessary to serve land primarily in agricultural use or if the owner of land in an exclusive agricultural use zone elects to use and benefit from a public project.

Subd. 3. **Recapture of deferred assessment.** If assessments are not levied against property under subdivision 1, the local government shall file a certificate with the county recorder containing a legal description of the property and the amount deferred. If the property is terminated as an exclusive agricultural use zone under section 40A.11, the deferred assessments plus interest are payable within 90 days after termination of the zone. If the deferred assessment is not paid within 90 days, the county auditor shall include the deferred assessment plus a ten percent penalty on the tax list for the current year.

History: *1Sp1985 c 13 s 142*

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 according to the model ordinance adopted by the commissioner. The model ordinance and sections 40.19 to 40.28 and sections adopted under chapter 40 relating to soil loss apply to all

land in an exclusive agricultural zone. A sound soil conservation practice prevents excessive soil loss or reduces soil loss to the most practicable extent.

Subd. 2. [Repealed, 1Sp1985 c 13 s 376]

Subd. 3. [Repealed, 1Sp1985 c 13 s 376]

Subd. 4. [Repealed, 1Sp1985 c 13 s 376]

Subd. 5. [Repealed, 1Sp1985 c 13 s 376]

History: 1Sp1985 c 13 s 143

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

[For text of subs 1 to 3, see M.S.1984]

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 up to \$30,000 of preparing new plans and official 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.

[For text of subd 5, see M.S.1984]

History: 1Sp1985 c 13 s 144