

CHAPTER 40A

AGRICULTURAL LAND PRESERVATION PROGRAM

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40A.02 DEFINITIONS.

[For text of subs 1 to 9, see M.S.1988]

Subd. 10. **Agricultural preserve.** "Agricultural preserve" or "preserve" means a preserve created under this chapter.

[For text of subs 11 to 16, see M.S.1988]

History: 1989 c 313 s 1

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 60 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 90 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 120 days of completion of the commissioner's review.

[For text of subd 2, see M.S.1988]

History: 1989 c 313 s 2

40A.10 APPLICATION FOR CREATION OF AGRICULTURAL PRESERVE.

Subdivision 1. **Contents.** An eligible person may apply to the county in which the land is located for the creation of an agricultural preserve on forms provided by the commissioner. In case a preserve 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. When used in this chapter, the term "date of application" means the date the application is determined to be complete by the county. The county shall send a copy of the application to the county assessor, 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. A copy of the application and a legal description of the property must also be sent 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.

Subd. 6. Maps. The commissioner shall maintain agricultural preserve maps illustrating land covenanted as agricultural preserves.

History: 1989 c 313 s 3

40A.11 DURATION OF EXCLUSIVE AGRICULTURAL USE ZONE.

[For text of subs 1 to 3, see M.S.1988]

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, the commissioner, and the county soil and water conservation district of the date of expiration. Designation as an agricultural preserve 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.

[For text of subd 5, see M.S.1988]

History: 1989 c 313 s 4

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 308A, 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.

[For text of subds 2 to 9, see M.S.1988]

History: 1989 c 356 s 4

40A.123 LIMITATION ON CERTAIN PUBLIC PROJECTS.

[For text of subds 1 and 2, see M.S.1988]

Subd. 3. [Repealed, 1989 c 313 s 11]

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

[For text of subd 1, see M.S.1988]

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 0.01209 percent of taxable market value 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.

[For text of subds 3 to 5, see M.S.1988]

History: 1989 c 277 art 4 s 4

40A.17 REPORT.

The commissioner shall report to the legislature on January 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: 1989 c 313 s 5

40A.18 LAND USE.

Subdivision 1. **Agricultural production.** Land within an agricultural preserve must be maintained for agricultural production. The average maximum density of residential structures within an agricultural preserve and the location of a new structure must conform to locally applicable plan or zoning regulations. Commercial and industrial uses are not permitted except as provided in subdivision 2 after the user is issued a permit by the local government. The local government is responsible for enforcing this section.

Subd. 2. **Allowed commercial and industrial operations.** Commercial and industrial operations are not allowed on land within an agricultural preserve except:

(1) small on-farm commercial or industrial operations normally associated with and important to farming in the agricultural preserve area;

(2) storage use of existing farm buildings that does not disrupt the integrity of the agricultural preserve; and

(3) small commercial use of existing farm buildings for trades not disruptive to the integrity of the agricultural preserve such as a carpentry shop, small scale mechanics shop, and similar activities that a farm operator might conduct.

"Existing" in clauses (2) and (3) means existing on August 1, 1989.

Subd. 3. **Density restriction after subdivision.** If a separate parcel is created for a residential structure, commercial, or industrial use permitted under subdivision 1, the parcel is no longer an agricultural preserve unless the eligibility requirements of section 40A.09 and any county eligibility requirements are met. However, the separate parcel must remain under the maximum residential density restrictions in effect for the original preserve at the time it was placed into the preserve until the agricultural preserve status for the original parcel ends.

History: 1989 c 313 s 6

40A.19 TRANSFER FROM AGRICULTURAL PROPERTY TAX LAW TREATMENT.

When land which has been receiving the special agricultural valuation and tax deferment provided in section 273.111 becomes an agricultural preserve under sections 40A.02 to 40A.17, the recapture of deferred tax and special assessments as provided in section 273.111, subdivisions 9 and 11, may not be made. Special assessments deferred under section 273.111, at the date of commencement of the preserve, must continue to be deferred for the duration of the preserve. All these deferred special assessments are payable within 90 days of the date of expiration unless other terms are mutually agreed upon by the authority and the owner. In the event of early termination of a preserve or a portion of it under section 40A.11, subdivision 5, all special assessments accruing to the terminated portion plus interest are payable within 90 days of the date of termination unless otherwise deferred or abated by executive order of the governor. In the event of a taking under section 40A.122, all special assessments accruing to the taken portion plus interest are payable within 90 days of the date the final certificate is filed with the court administrator of district court in accordance with section 117.205.

History: 1989 c 313 s 7