

## 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.

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; 1Sp1985 c 13 s 128

**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. [Repealed, 1991 c 345 art 2 s 69]

Subd. 3. **Agricultural use.** "Agricultural use" means the production of livestock, 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.

Subd. 4. **Board.** "Board" means the Board of Water and Soil Resources.

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

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.

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 394.22, subdivision 6.

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; 1Sp1985 c 13 s 129-131; 1987 c 358 s 34; 1987 c 384 art 3 s 42; 1989 c 313 s 1

#### 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 December 31, 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; 1Sp1985 c 13 s 132; 1987 c 396 art 7 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.

**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:** 1984 c 654 art 3 s 34; 1Sp1985 c 13 s 133; 1989 c 313 s 2

#### 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.

**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; 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: 1984 c 654 art 3 s 36; 1Sp1985 c 13 s 136*

**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 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 implement the revised plans and controls within one year after receiving the county approved agricultural land preservation plan and controls.

*History: 1984 c 654 art 3 s 37; 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.08 [Repealed, 1991 c 345 art 2 s 69]****40A.09 AGRICULTURAL PRESERVE; 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 agricultural preserve. 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; 1989 c 313 s 10*

**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 shall be executed and acknowledged in the manner required by law to execute and acknowledge a deed and must contain at least the following information and other information the commissioner requires:

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(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 statement by 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 providing that the restrictive covenant will be binding on the owner or the owner's successor or assignee, and will run with the land.

**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 for recording, or to the registrar of titles for filing if the land is registered. The county recorder shall record the application containing the restrictive covenant and return it to the applicant. If the land is registered, the registrar of titles shall memorialize the application containing the restrictive covenant upon the certificate of title. The recorder or registrar of titles shall notify the county that the application has been recorded or memorialized.

**Subd. 4. Commencement of agricultural preserve.** The land is an agricultural preserve 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:** 1984 c 654 art 3 s 40; 1989 c 313 s 3,10; 1999 c 11 art 1 s 1,2

## 40A.11 DURATION OF AGRICULTURAL PRESERVE.

**Subdivision 1. General.** An agricultural preserve 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 agricultural preserve 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 agricultural preserve 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, or to the registrar of titles if the land is registered, and shall notify the regional development commission, the commis-

sioner, 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. If the land is registered, the registrar of titles shall cancel the memorial of the application containing the restrictive covenant upon the certificate of title on the effective date of the expiration.

**Subd. 5. Early expiration.** An agricultural preserve 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 agricultural preserve, the reasons requiring the action, and the date of expiration.

**History:** 1984 c 654 art 3 s 41; 1989 c 313 s 4,10; 1999 c 11 art 1 s 3

#### 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 agricultural preserve 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; 1989 c 313 s 10

#### 40A.121 ANNEXATION PROCEEDINGS.

**Subdivision 1. Annexation prohibited.** Land within an agricultural preserve that is within a township may not be annexed to a municipality under chapter 414, unless the director of the Office of Strategic and Long-Range Planning 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 under chapter 414 prior to creation of the zone.

**History:** 1Sp1985 c 13 s 140; 1989 c 313 s 10; 2003 c 2 art 5 s 3

#### 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 agricultural preserve; 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 agricultural preserve.

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 agricultural preserve 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 administrator 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; 1Sp1986 c 3 art 1 s 82; 1989 c 313 s 10; 1989 c 356 s 4*

#### 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 agricultural preserve elects to use and benefit from a public project.

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

**History:** *1Sp1985 c 13 s 142; 1989 c 313 s 10*

#### 40A.13 SOIL CONSERVATION PRACTICES.

Subdivision 1. **Conservation practices to prevent soil loss required.** An owner of agricultural land in an agricultural preserve 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 103F.401 to 103F.455, and sections 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:** 1984 c 654 art 3 s 43; 1Sp1985 c 13 s 143; 1989 c 313 s 10; 1990 c 391 art 8 s 5

#### 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 Board of Water and Soil Resources, 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. [Repealed, 2001 c 161 s 58]

**History:** 1984 c 654 art 3 s 44; 1987 c 358 s 34; 1987 c 384 art 3 s 42

#### 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 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.

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 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.

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; 1Sp1985 c 13 s 144; 1988 c 719 art 5 s 84; 1989 c 277 art 4 s 4

#### 40A.151 MINNESOTA CONSERVATION FUND.

Subdivision 1. **Establishment.** The Minnesota conservation fund is established as an account in the state treasury. Money from counties under section 40A.152 must be deposited in the state treasury and credited one-half to the Minnesota conservation fund account and one-half to the general fund.

Subd. 2. **Use of fund.** Money in the fund is annually appropriated to the commissioner of revenue to reimburse taxing jurisdictions as provided in sections 273.119 and 473H.10.

**History:** 1986 c 398 art 28 s 1; 2002 c 377 art 12 s 2

#### 40A.152 COUNTY CONSERVATION FEE; ACCOUNT.

Subdivision 1. **Fee.** A county that is a metropolitan county under section 473.121, subdivision 4, has allowed exclusive agricultural zones to be created under this chapter, or has elected to become an agricultural land preservation pilot county, shall impose an additional fee of \$5 per transaction on the recording or registration of a mortgage subject to the tax under section 287.05 and an additional \$5 on the recording or registration of a deed subject to the tax under section 287.21. One-half of the fee must be deposited in a special conservation account to be created in the county general revenue fund and one-half must be transferred to the commissioner of revenue for deposit in the state treasury pursuant to section 40A.151, subdivision 1.

Subd. 2. **Use of account.** Money from the county conservation account must be spent by the county to reimburse the county and taxing jurisdictions within the county for revenue lost under the conservation tax credit under section 273.119 or the valuation of agricultural preserves under section 473H.10. If expenditures from other county funds for the same purposes remain at least equal to the amount spent in the previous county budget year, money remaining in the account after the reimbursements are made may be spent for the following purposes:

- (1) agricultural land preservation and conservation planning and implementation of official controls under this chapter or chapter 473H;
- (2) soil conservation activities and enforcement of soil loss ordinances;
- (3) incentives for landowners who create exclusive agricultural use zones;

(4) payments to municipalities within the county for the purposes of clauses (1) to (3).

Subd. 3. **Transfer to state fund.** Money in the county conservation account that is not encumbered by the county within one year of deposit in the account must be transferred to the commissioner of revenue for deposit in the state treasury pursuant to section 40A.151, subdivision 1.

*History: 1986 c 398 art 28 s 2; 1987 c 396 art 7 s 2,3; 2002 c 377 art 12 s 3,4*

#### **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 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; 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 deferral 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

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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