



**Michigan Association of Planning
A Chapter of the American Planning Association**

Excerpted from the MSPO Community Planning Handbook

Farmland Agreements

Description

In an effort to curb significant losses of agricultural land to residential development, the Michigan Legislature passed tax relief legislation in the form of the Farmland and Open Space Preservation Act, P.A. 116 or 1974. The act enables a landowner to enter into a development rights agreement with the state, whereby the property owner agrees to keep the enrolled land for agricultural use in return for a credit on his state income tax. The minimum duration of an agreement is ten years, but it may be for a longer period (up to 99 years). Agreements can also be renewed.

Eligibility requirements include:

- An operating farm of more than 40 acres in size.
- An operating farm of 5 to 40 acres with a gross annual income of \$200 per tilled and cleared acre.
- An operating specialty farm (as designated by the Michigan Department of Agriculture) of at least 15 acres with a gross annual income of \$2,000.

At least 51% of the land in an operating farmland application must be under active cultivation or pasture. The property owner does not have to provide public access to the land and the property may be sold. New owners, however, are bound by the agreement until it expires.

There are provisions under Section 15 of the Act that provides for injunction or penalty if the agreement is broken.

Planning Considerations

While the Act's benefits only extend to the property owners enrolled in the program, the farmland protected can also benefit a community. As a result, some communities actively promote enrollment in P.A. 116. However, promotion should not be

haphazard. Some farmlands should not be enrolled in this program. For example, farmlands surrounded by urban development or adjacent to urban services are not good candidates for long-term preservation. Promotion of the program should be in targeted areas identified as important through the master plan or Environmental Quality and Natural Resource Plan.

Conversely, when a community is first developing a farmland preservation program, planning studies should include an analysis of land currently enrolled in P.A. 116.

General procedures for entering the farmland preservation program include:

- An interested land owner files an application with the local unit of government. If the local unit of government does not have an adopted zoning ordinance, the land owner applies with the county.
- The local governing body has 45 days to solicit comments from appropriate interested entities (e.g., the local Soil Conservation District Office, regional planning commission, a city within three miles of the property, or a village within one mile of the property) and approve or reject the application based on information gathered.
- If the application is approved, it is forwarded to the Department of Natural Resources.
- Applications should be locally recommended for approval if they are consistent with the community's farmland protection program, and should be recommended for denial if they would conflict with community development goals.
- If the application is rejected by the local governing body, or not acted upon within the specified amount of time, the property owner may appeal directly to the Department of Natural Resources, which will make a determination on the property after considering the local governing body's comments.

Advantages

- Reduces pressures to convert farmland to other uses.
- Gives property owners an incentive (income tax relief) to hold land out of development.
- Helps prevent premature development of land.
- The local governing body still receives property tax on enrolled land; the tax credit is applied to the landowner's income tax.

Disadvantages

- The act only requires that the land be actively farmed and does not distinguish between prime or unique lands and marginal farmlands.
- Once a property owner is enrolled in the program, it is very difficult to dissolve the agreement. Some property owners may feel trapped in the program.

- Some local governmental units may feel the agreements keep the local tax base from developing.

Limitations

- Farmland agreements are between the state and a property owner. The role of a local unit is limited to encouraging enrollment in the program and passing along to the DNR, any prospective violations of the Act.
- Enrolled properties are exempt from most local special assessments (which may make a community less desirous of supporting enrollment).
- Use of this technique has not been very successful in urbanizing area. Property owners do not want to enter the program in anticipation of potential profits from future land sales.