

Topic:	Incentive Zoning; Farmland Protection & Preservation; Agriculture
Resource Type:	Regulations
State:	Massachusetts
Jurisdiction Type:	State
Municipality:	N/A
Year (<i>adopted, written, etc.</i>):	2004
Community Type – applicable to:	Urban; Suburban; Rural
Title:	State of Massachusetts Agricultural Incentive Areas Ordinance
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Abstract

This statute authorizes a city or town to determine and designate agricultural land or land with horticultural use as agricultural incentive areas upon consultation with, and review by local and regional planning and zoning boards. Section two of this statute authorizes a municipality to establish an agricultural incentive area committee for purposes of performing the functions under this chapter, “Agricultural Incentive Areas,” namely the preservation of agricultural or horticultural lands via the designation of agricultural incentive areas and mapping of soil classification of such lands.

Resource

MASS. GEN. Laws ch. 40L, § 4 (2004)

§ 4. Recommendations for Formation of Agricultural Incentive Areas; Public Hearings; Adoption of Plan; Submission for Certification.

Upon completion of the requirements of section three, the committee shall formulate its recommendations for the formation of an agricultural incentive area within the town or city. Such areas shall be composed principally of agricultural land, land in agricultural or horticultural use, and certain lands contiguous thereto. The committee shall submit said recommendations to local conservation commissions, planning boards, selectmen, or mayor or city manager, and city council, the area conservation district and the regional planning district for their review, and comment within thirty days from receipt thereof. Within the next sixty days following the above mentioned review period, the committee may make such revisions as are in their opinion indicated by said comments and shall hold a public hearing within the municipality. Following the public hearing, the committee may adopt as a plan the proposal or any revisions thereto it deems appropriate; provided, however, that no land may be included in an agricultural incentive area plan pursuant to this section unless the owner of the land has approved

in writing the inclusion of his land in the area. The committee shall act to adopt or reject the proposed agricultural incentive area no later than thirty days from the time of the public hearing. The adoption of an agricultural incentive area plan shall be by a two-thirds vote of the committee. The committee shall submit the area plan to the commissioner of food and agriculture for certification by the agricultural lands preservation committee.

The agricultural lands preservation committee shall have sixty days after receipt of the area plan within which to certify to the committee whether the proposed plan is eligible, whether the area to be included consists primarily of suitable agricultural land, and whether the plan of the proposed area appears feasible. If the agricultural lands preservation committee disapproves the area plan, it shall state its reasons for such disapproval in writing together with such suggestions as it deems appropriate. If the agricultural lands preservation committee fails to certify the area plan, the agricultural incentive area committee may resubmit such plan only after the committee has held another public hearing at which hearing any modifications proposed by the agricultural lands preservation committee shall be considered.

Upon certification of an area plan by the agricultural lands preservation committee, the agricultural incentive area committee shall submit the plan to the selectmen or mayor. Approval of the area plan shall require a two-thirds vote of the city council in a city or town meeting in a town. If approved, the area shall be in effect sixty days from the date of approval.

If the area plan is approved by the city or town, the committee shall file a description of the area and a map thereof with the chairman of the planning board, the clerk of the municipality, and the commissioner. The selectmen, mayor or city manager shall file such plan in the public restriction tract index established pursuant to the provisions of section thirty-three of chapter one hundred and eighty-four, of the appropriate registry of deeds.

MASS. GEN. LAWS ch. 40L, § 2 (2004)

§ 2. Agricultural Incentive Area Committee; Purpose; Membership; Terms of Office; Removal; Compensation; Meetings; Quorum; Rules and Regulations.

The board of selectmen in a town or the mayor of a city with approval of the city council may establish an agricultural incentive area committee for the purpose of investigating, delineating, and establishing an agricultural incentive area in the municipality, hereinafter called area.

Said committee shall consist of seven members appointed by the board of selectmen or by the mayor with the approval of the city council. Said members shall include one member of the board of selectmen or city council, one member of the planning board, one member of the conservation commission, three residents of the municipality whose principal occupation is agriculture or horticulture and one person from the public at

large.

Each member shall serve for a term of three years, except that in the initial appointments two members shall serve for a term of one year, three members shall serve for a term of two years and two members shall serve for a term of three years.

Any member of said committee so appointed may, after a public hearing if requested, be removed for cause and a new member appointed by the appointing authority.

All members of the committee shall serve without compensation.

The committee shall elect annually a chairman and vice-chairman from its own members and a secretary who need not be a member of the committee. The committee shall hold an annual meeting in March and from time to time at the call of the chairman or upon the request of any two members. Four members of the committee shall constitute a quorum. The committee may, by a vote of a majority of its members then in office, adopt rules and regulations for the conduct of its business. Rules and regulations adopted may be amended or repealed by a two-thirds vote of its members.

MASS. GEN. LAWS ch. 40L, § 3 (2004)

§ 3. Maps of Agricultural and Horticultural Land; Availability to Public; Informational Meetings; Notice.

The commission shall locate and map all land in agricultural or horticultural use within the town or city showing such soil classification information as is available from the United States Department of Agriculture Soil Conservation Service. Such map or maps shall indicate property boundaries, the owner of the land, and the present zoning classification of said land. Conservation districts as established pursuant to the provisions of chapter twenty-one, regional planning districts as established pursuant to the provisions of chapter forty B, and the department of food and agriculture shall make available to the committee such maps, data, and other available information as is pertinent to the work of the committee.

The committee shall make available in one or more public places, the aforementioned maps, and provide printed information to all affected landowners. Said committee shall hold one or more public informational meetings in order to explain the purposes and requirements of such agricultural incentive areas. Notice of said meetings shall be given by registered mail to all affected or abutting landowners and by publication.

MASS. GEN. LAWS ch. 40L, § 1 (2004)

§ 1. Definitions.

Definitions.-- as used in this chapter the following words shall, unless the context clearly indicates otherwise, have the following meaning:--

"Agricultural land", land suitable for agricultural or horticultural use, including land rated by the United States Department of Agriculture Soil Conservation Service as Class 1 through Class IV, unique, or of statewide or local area importance.

"Agricultural lands preservation committee", committee established under the provisions of section eleven B of chapter one hundred and thirty-two A.

"Commissioner", commissioner of the department of food and agriculture.

"Committee", municipal agricultural incentive areas committee established pursuant to section two.

"Department", the department of food and agriculture.

"Land in agricultural or horticultural use", land which meets the requirements for such land for classification under chapter sixty-one A, whether or not such land is so classified. land, swamps and other wetlands, and shall show which areas are subject to restrictions or wetland zoning provisions and any other matters which may be shown on a plat index under section thirty-three of chapter one hundred and eighty-four. Acquisitions of interests in land under this section and other municipal open lands shall be shown thereon as well as lands owned by other entities kept open through any legal requirement. Such plan shall show other areas which public necessity requires to be retained for conservation and passive recreation use. It shall keep accurate records of its meetings and actions and shall file an annual report which shall be printed in the case of towns in the annual town report. The commission may appoint a director, clerks, consultants and other employees, and may contract for materials and services within available funds insofar as the same are not supplied by other departments. The commission shall consist of not less than three or more than seven members. In cities the members shall be appointed by the mayor, subject to the provisions of the city charter, except that in cities having or operating under a Plan D or Plan E form of city charter, said appointments shall be by the city manager, subject to the provisions of the charter; and in towns they shall be appointed by the selectmen, excepting towns having a manager form of government, in which towns appointments shall be made by the town manager, subject to the approval of the selectmen. When a commission is first established, the terms of the members shall be for one, two or three years, and so arranged that the terms of approximately one third of the members will expire each year, and their successors shall be appointed for terms of three years each. Any member of a commission so appointed may, after a public hearing, if requested, be removed for cause by the appointing authority. A vacancy occurring otherwise than by expiration of a term shall in a city or town be filled for the unexpired term in the same manner as an original appointment. Said commission may receive gifts, bequests or devises of personal property or interests in real property of the kinds mentioned below in the name of the city or town, subject to the approval of the city council in a city or of the selectmen in a town. It may purchase interests in such land with sums available to it. If insufficient funds are available or other reasons so require, a city council or a town meeting may raise or transfer funds so that the commission may acquire in the name of the city or town by option, purchase, lease or otherwise the fee in such land or water rights, conservation restrictions, easements or

other contractual rights including conveyances on conditions or with limitations or reversions, as may be necessary to acquire, maintain, improve, protect, limit the future use of or otherwise conserve and properly utilize open spaces in land and water areas within its city or town, and it shall manage and control the same. For the purposes of this section a city or town may, upon the written request of the commission, take by eminent domain under chapter seventy-nine, the fee or any lesser interest in any land or waters located in such city or town, provided such taking has first been approved by a two-thirds vote of the city council or a two-thirds vote of an annual or special town meeting, which land and waters shall thereupon be under the jurisdiction and control of the commission. Upon a like vote, a city or town may expend monies in the fund, if any, established under the provisions of this section for the purpose of paying, in whole or in part, any damages for which such city or town may be liable by reason of any such taking. The commission may adopt rules and regulations governing the use of land and waters under its control, and prescribe penalties, not exceeding a fine of one hundred dollars, for any violation thereof. No action taken under this section shall affect the powers and duties of the state reclamation board or any mosquito control or other project operating under or authorized by chapter two hundred and fifty-two, or restrict any established public access. Lands used for farming or agriculture, as defined in section one A of chapter one hundred and twenty-eight, shall not be taken by eminent domain under the authority of this section.

A city or town may appropriate money in any year to a conservation fund of which the treasurer shall be the custodian. Prior to the adoption of any rule or regulation which seeks to further regulate matters established by section forty of chapter one hundred and thirty-one or regulations authorized thereunder relative to agricultural or aquacultural practice, the commission shall, no later than seven days prior to the commission's public hearing on the adoption of said rules and regulations, give notice of the said proposed rules and regulations to the farmland advisory board established pursuant to section forty of chapter one hundred and thirty-one. He may deposit or invest the proceeds of said fund in savings banks, trust companies incorporated under the laws of the commonwealth, banking companies incorporated under the laws of the commonwealth which are members of the Federal Deposit Insurance Corporation, or national banks, or invest it in paid up shares and accounts of and in cooperative banks or in shares of savings and loan associations or in shares of federal savings and loan associations doing business in the commonwealth, and any income therefrom shall be credited to the fund. Money in said fund may be expended by said commission for any purpose authorized by this section; provided, however, that no expenditure for a taking by eminent domain shall be made unless such expenditure has been approved in accordance with this section.

<http://www.mass.gov/legis/laws/mgl/40l-4.htm>

<http://www.mass.gov/legis/laws/mgl/40l-2.htm>

<http://www.mass.gov/legis/laws/mgl/40l-3.htm>

<http://www.mass.gov/legis/laws/mgl/40l-1.htm>

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