

Subchapter C. ADDING LAND TO AN EXISTING ASA

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§ 138l.31. Adding land to an existing ASA.

(a) *Adding land to an ASA located entirely within the same local government unit as the land proposed for inclusion.* If an ASA is entirely contained within a single local government unit, land that is located within that same local government unit may be added to the ASA at any time, using the same process and procedure that is followed for the initial creation of an ASA, as set forth in this chapter.

(b) *Adding land to an ASA located within two or more local government units, where the land proposed for inclusion lies entirely within the local government units in which the existing ASA is located.* If an ASA is contained within two or more local government units, land that is located entirely within the local government units in which the ASA is located may be added to the ASA at any time, using the same process and procedure that is followed for the initial creation of an ASA, as set forth in this chapter.

(c) *Adding land to an ASA where the land proposed for inclusion lies entirely outside the local government units in which the ASA is located.* If an ASA is contained within one or more local government units, land that is located in a local government unit outside of a local government unit within which the ASA is located may be added to an ASA at any time, if the following apply:

(1) Prior to the submission of the proposal, the local government unit in which the land proposed for inclusion is located and each local government unit in which the existing ASA is located have adopted an ordinance or resolution allowing all of the land

(including, at a minimum, both the land in the existing ASA and the land proposed for inclusion) to be part of a single ASA located within all of the local government units.

(2) The addition is made using the same process and procedure that is followed for the initial creation of an ASA, as set forth in this chapter.

(d) *Minimum acreage requirement is inapplicable.* Where land is proposed for inclusion into an existing ASA, it need not meet the minimum 250-acres-of-viable-agricultural-land requirement that is applicable to the initial formation of an ASA.

Example: Three parcels of farmland, totaling 120 acres of viable agricultural land, are proposed for inclusion into an existing ASA. The total acreage of the parcels proposed for inclusion does not have to meet the same 250-acres-of-viable-agricultural-land standard that was applicable to the initial formation of the ASA.

(e) *Effect of addition of land to an existing ASA on the required 7-year review of the ASA.* If land is added to an existing ASA, the added land shall be reviewed at the same time the original land undergoes its 7-year review as described in § 1381.51 (relating to 7-year review) or an interim review as described in § 1381.52 (relating to interim review).

Cross References

This section cited in 7 Pa. Code § 1381.15 (relating to ASA located in more than one local government unit).

§ 1381.32. Automatic inclusion of certain parcels bisected by the dividing line between local government units.

If a parcel of farmland is bisected by the dividing line between two local government units, the entire parcel shall be automatically included in an ASA—whether in the initial creation of the ASA or by modification of an existing ASA—if the following apply:

(1) The two local government units are in the same county.

(2) The parcel meets the eligibility requirements for inclusion in an ASA.

(3) A proposal for creation or modification of an ASA has been submitted to the governing body of one of the local government units in which the parcel is located, as set forth in this chapter, seeking the following:

(i) In the case of a proposal for the creation of an ASA: the inclusion of the entire parcel in the ASA.

(ii) In the case of a proposal for the modification of an existing ASA, where no portion of the parcel is within that existing ASA: the inclusion of the entire parcel within the ASA.

(iii) In the case of a proposal for the modification of an existing ASA, where a portion of the parcel is part of the existing ASA: the inclusion of the remainder of the parcel within the ASA.

(4) A majority of the parcel's viable agricultural land lies within the local government unit to which the proposal for creation or modification of an ASA has been submitted.

(5) The local government unit in which the minority of the parcel's viable agricultural land is located has not approved the creation of an ASA within its borders.

(6) The governing body of the local government unit adopts a proposal for creation or modification of an ASA that includes—at a minimum—that portion of the parcel located within that government unit.

Cross References

This section cited in 7 Pa. Code § 1381.15 (relating to ASA located in more than one local government unit); and 7 Pa. Code § 1381.21 (relating to effective date of the creation or modification of an ASA).

§ 1381.33. Automatic inclusion of certain parcels bisected by the dividing line between local government units upon the purchase of an agricultural conservation easement by certain entities.

(a) *General.* If a parcel of farmland is bisected by the dividing line between two local government units, and the portion of the parcel in one local government unit is within an ASA and the portion of the parcel in the other local government unit is not, the portion of the parcel that is not within an ASA shall be automatically included in the ASA if the following apply:

(1) A majority of the parcel's viable agricultural land lies within the local government unit in which the ASA is located.

(2) An agricultural conservation easement is purchased by any of the following with respect to the parcel:

(i) The county.

(ii) The county and the Commonwealth, jointly.

(iii) The county and a local government unit, jointly.

- (iv) The county, the Commonwealth and a local government unit, jointly.

Example: A 100-acre parcel of farmland is comprised of 80 acres in Township A and 20 acres in Township B. The 80-acre portion of the parcel is within an ASA established by Township A. The majority of the parcel's viable agricultural land is in Township A. The county purchases an agricultural conservation easement with respect to the parcel. Under these facts, as of the purchase of the agricultural conservation easement the 20-acre portion of the parcel located in Township B becomes part of the ASA covering the 80-acre portion of the parcel.

(b) *Exception.* Subsection (a) does not apply with respect to agricultural conservation easement purchases made solely by the Commonwealth.

Cross References

This section cited in 7 Pa. Code § 1381.15 (relating to ASA located in more than one local government unit); and 7 Pa. Code § 1381.21 (relating to effective date of the creation or modification of an ASA).

§ 1381.34. Automatic inclusion of portions of certain parcels bisected by the dividing line between counties upon the purchase of an agricultural conservation easement by certain parties.

(a) *General.* If a parcel of farmland is bisected by the dividing line between two counties, and the portion of the parcel in one county is within an ASA and the portion of the parcel in the other county is not, the portion of the parcel that is not within an ASA shall be automatically included in the ASA if the following apply:

(1) One of the following applies:

(i) There is a mansion house on the parcel of farmland, and it is located in the county within which the existing ASA is located.

(ii) There is a mansion house on the parcel of farmland, and the mansion house is bisected by the dividing line between the two counties. The landowner has designated the county within which the ASA is located as the situs of assessment for tax purposes.

(iii) There is no mansion house on the parcel of farmland, but the majority of the parcel's viable agricultural land lies within the existing ASA.

(2) An agricultural conservation easement is purchased by any of the following with respect to the parcel:

(i) The county.

(ii) The county and the Commonwealth, jointly.

(iii) The county and a local government unit, jointly.

(iv) The county, the Commonwealth and a local government unit, jointly.

Example 1: A parcel of farmland straddles the boundary line between County A and County B. The portion of the parcel in County A is in an ASA. There is no mansion house on the parcel. The majority of the parcel's viable agricultural land is in County A. County A purchases an agricultural conservation easement with respect to the entire parcel. Under these facts, as of the purchase of the agricultural conservation easement the portion of the parcel in County B becomes part of the ASA in which the remainder of the parcel is located.

Example 2: A parcel of farmland straddles the boundary line between County A and County B. There is a mansion house on the parcel, and it is located in County A. County A purchases an agricultural conservation easement with respect to the entire parcel. Under these facts, as of the purchase of the agricultural conservation easement the portion of the parcel in County B becomes part of the ASA in which the remainder of the parcel is located.

Example 3: A parcel of farmland straddles the boundary line between County A and County B. There is a mansion house on the parcel, and it straddles the dividing line between County A and County B. County A is the situs of the mansion house for tax purposes. County A purchases an agricultural conservation easement with respect to the entire parcel. Under these facts, as of the purchase of the agricultural conservation easement the portion of the parcel in County B becomes part of the ASA in which the remainder of the parcel is located.

(b) *Exception.* Subsection (a) does not apply with respect to agricultural conservation easement purchases made solely by the Commonwealth.

Cross References

This section cited in 7 Pa. Code § 1381.15 (relating to ASA located in more than one local government unit); and 7 Pa. Code § 1381.21 (relating to effective date of the creation or modification of an ASA).

Subchapter D. REMOVING LAND FROM AN EXISTING ASA

Sec.

138l.41. Removing land that has been in an ASA for 7 years or more.

138l.42. Removing land in the course of the 7-year review or an interim review.

§ 138l.41. Removing land that has been in an ASA for 7 years or more.

(a) *Removal permitted.* If land has been in an ASA for 7 years or more, it may be removed from the ASA at the landowner's discretion, if both of the following apply:

(1) The landowner submits to the governing body of the local government unit in which the ASA is situated a written notification to have the land deleted from the ASA. The written notification shall contain information sufficient to identify the land to be removed, and shall include the acreage of the land to be removed.

(2) The written notification is submitted by certified mail, with return receipt requested.

(b) *Limitation on authority.* The governing body does not have the authority to deny a landowner's notification to remove land from an ASA.

(c) *Effective date of removal.* The removal of land from an ASA shall take effect upon receipt of this written notification by the governing body in accordance with subsection (a)(2).

(d) *Recording the removal of land from an ASA.* The governing body shall record the description of an ASA from which land has been removed within 10 days of the effective date of the removal. This recording shall be in accordance with § 138l.22 (relating to filing an ASA description by governing body; recording of the ASA description).

(e) *Failure of remaining land to meet ASA eligibility requirements.* If the removal of land from an ASA in response to a landowner's written notification causes the remaining lands of the ASA to fail to meet the minimum standards for an ASA, as set forth in § 138l.12 (relating to eligibility to propose the creation of an ASA), the ASA shall terminate. The governing body shall be responsible to record this termination with the offices or entities described in § 138l.22(a)(1)—(3).

§ 138l.42. Removing land in the course of the 7-year review or an interim review.

(a) *Removal permitted.* The landowner shall have the discretion to remove the land from the ASA in which it is located, if this removal is done in the course of the 7-year review process described in § 138l.51 (relating to 7-year review), or the interim review process described in § 138l.52 (relating to interim review), and the following apply:

(1) The landowner submits to the governing body of the local government unit in which the ASA is situated a written notification to have the land deleted from the ASA.

The written notification shall contain information sufficient to identify the land to be removed, and shall include the acreage of the land to be removed.

(2) The written notification is submitted by certified mail, with return receipt requested.

(b) *Limitation on authority.* The governing body does not have the authority to deny a landowner's notification to remove land from an ASA.

(c) *Effective date of removal.* The removal of land from an ASA shall take effect upon receipt of this written notification by the governing body in accordance with subsection (a)(2).

(d) *Recording the removal of land from an ASA.* The governing body shall record the description of an ASA from which land has been removed within 10 days of the effective date of the removal. This recording shall be in accordance with § 138l.22 (relating to filing an ASA description by governing body; recording of the ASA description).

(e) *Failure of remaining land to meet ASA eligibility requirements.* If the removal of land from an ASA in response to a landowner's written notification causes the remaining lands of the ASA to fail to meet the minimum standards for an ASA, as set forth in § 138l.12 (relating to eligibility to propose the creation of an ASA), the ASA shall terminate. The governing body shall be responsible to record this termination with the offices or entities described in § 138l.22(a)(1)—(3) (relating to filing of ASA description by governing body; recording of the ASA description).

Subchapter E. SEVEN-YEAR REVIEW AND INTERIM REVIEW

Sec.

138l.51. Seven-year review.

138l.52. Interim review.

§ 138l.51. Seven-year review.

(a) *General.* The governing body of the local government unit shall review an ASA 7 years from the date of its creation and every 7 years thereafter, in accordance with the procedure in this section.

(b) *Advisory bodies to be consulted.* The governing body conducting a 7-year review shall request the recommendations of the planning commission, the county planning commission and the advisory committee with respect to the ASA that is being reviewed. The governing body shall seek and obtain these recommendations on its own timetable, but sufficiently in advance of the end of the 7th year to allow a summary of the recommendations of these advisory bodies to be included in the notice described in subsections (c)—(e).

(c) *Notice required 30 days or more before commencement of review.* The governing body conducting a 7-year review shall, at least 30 days prior to the commencement of a 7-year review, provide notice of the 7-year review of the ASA and the public hearing to be held as part of that review.

(d) *Notice procedure.* The notice described in subsection (c) shall be accomplished by doing the following:

(1) Publishing a hearing notice in a newspaper having general circulation in the area in which the ASA is located.

(2) Providing a written hearing notice to any person owning land within the ASA.

(3) Posting a written hearing notice in at least five conspicuous places within, adjacent to or near the ASA.

(e) *Contents of hearing notice.* The hearing notice described in subsection (d) shall contain the following:

(1) A statement of the time, date and location of the public hearing.

(2) A general description of the ASA being reviewed.

(3) A general description of the recommendations of the planning commission, the county planning commission and the advisory committee.

(4) Notification that interested persons may, within 30 days of the date of the notice, submit proposed modifications to the ASA to the governing body.

(f) *Public hearing required between 120 and 180 days before the end of the 7th year.* The governing body conducting a 7-year review shall, at least 120 days prior to the end of the 7th year and no more than 180 days prior to the end of the 7th year, conduct a public hearing to review the ASA.

(g) *Location of public hearing.* The public hearing described in subsection (e) shall be held at a place either within the ASA or at a location readily accessible to the ASA—such as a nearby municipal building.

(h) *Factors to be considered by governing body.* The governing body shall consider the factors in § 1381.19(b) (relating to decision of local government unit) in reaching its decision to approve the ASA without change, modify the ASA or terminate the ASA.

(i) *Decision of governing body.* The governing body conducting a 7-year review shall, following the public hearing, approve the ASA without change, modify the ASA or terminate the ASA.

(j) *Notice of decision.* The governing body conducting a 7-year review shall provide notice of its decision in accordance with § 1381.20 (relating to notice of decision of local government unit).

(k) *Failure to act is deemed to be approval of the ASA without modification.* If the governing body fails to complete the steps in subsections (a)—(i) prior to the end of the 7th year, or if a proposed modification to the ASA is rejected, the ASA shall be deemed to be readopted without modification for another 7 years.

(l) *Recording a modification of an ASA or a termination of an ASA.* If the governing body modifies an ASA or terminates an ASA it shall, within 10 days of its decision, file a notice of termination or modification with the following:

- (1) The recorder of deeds of any county within which the ASA is located.
- (2) The county planning commission.
- (3) The planning commission of the local government unit.

(m) *Responsibility of the recorder.* A recorder of deeds receiving a notice of termination or modification of an ASA from a governing body as described in subsection (l) shall record the description in a manner sufficient to give notice to all persons who have an interest in land within the ASA or in lands adjoining the ASA.

Cross References

This section cited in 7 Pa. Code § 1381.31 (relating to adding land to an existing ASA); and 7 Pa. Code § 1381.42 (relating to removing land in the course of the 7-year review or an interim review).

§ 1381.52. Interim review.

(a) *Discretion.* If 10% or more of the land within an ASA is diverted to residential or nonagricultural commercial development at any time prior to a 7-year review of the ASA, the governing body may review the ASA and consider modifying or terminating the ASA, in accordance with the procedure in this section.

(b) *Advisory bodies to be consulted.* If the governing body elects to pursue the interim review described in subsection (a), it shall request, in writing, that the planning commission, the county planning commission and the advisory committee review the ASA and make recommendations with respect to modification or termination of the ASA within 30 days of receiving the written request.

(c) *Responsibility of advisory bodies.* The advisory bodies referenced in subsection (b) shall issue written recommendations within 30 days of receiving a request for recommendations from the governing body.

(d) *Public hearing requirements.* If the governing body elects to pursue the interim review described in subsection (a), it shall conduct a public hearing no sooner than 45 days after it submits its request for recommendations to the planning commission, the county planning commission and the advisory committee. The governing body shall provide the same notice for the public hearing as is described in § 1381.18(b) and (c) (relating to public hearing by local government unit on ASA proposal).

(e) *Location of public hearing.* The public hearing described in subsection (d) shall be held at a place either within the proposed ASA or at a location readily accessible to the proposed ASA—such as a nearby municipal building.

Cross References

This section cited in 7 Pa. Code § 1381.31 (relating to adding land to an existing ASA); and 7 Pa. Code § 1381.42 (relating to removing land in the course of the 7-year review or an interim review).