

CHAPTER 2-B

REGISTRATION OF FARMLAND

§51. Purpose

The Legislature finds that the public health, safety and welfare is threatened when land immediately adjacent to farmland is developed for human habitation. This development and the uses incident to it are inconsistent with various activities commonly engaged in on farmland, such as the application of agricultural chemicals. The Legislature declares that the purposes of this chapter are: [PL 1989, c. 478, §1 (NEW).]

1. Health impacts. To minimize any health or other adverse impacts which common agricultural activities may have on the occupants of land adjacent to farmland;
[PL 1989, c. 478, §1 (NEW).]

2. Agricultural activities. To protect the ability of farmers to engage in common agricultural activities with minimal potential for causing harm to their neighbors;
[PL 1989, c. 478, §1 (NEW).]

3. Full land use. To permit the owners of both farmland and adjacent land to maintain to the highest degree possible the full use and enjoyment of their land, but to recognize the importance of agriculture to the economic and social welfare of the State;
[PL 1989, c. 478, §1 (NEW).]

4. Production capacity. To conserve agricultural production capacity for present needs and for the future;
[PL 1989, c. 478, §1 (NEW).]

5. Harmony. To promote harmony between agriculture and adjacent nonfarm development;
[PL 1989, c. 478, §1 (NEW).]

6. Responsibility. To recognize the mutual responsibility of agricultural operators and persons siting nonfarm development adjacent to farmland to take steps to accommodate each other's concerns and the public interest;
[PL 1989, c. 478, §1 (NEW).]

7. Public records. For purposes of administering this regulatory program, to create in each municipality and each county registry of deeds a register of farmland which will provide a public record and enable disclosure to potential buyers of real estate and the public regarding the existence of active farming operations in the community that may be incompatible with residential development on lands in the immediate vicinity; and
[PL 1989, c. 478, §1 (NEW).]

8. Distance. When farmland is registered for the application of agricultural chemicals, to provide some accommodation for that activity and for adjacent nonfarm developments by distancing them from each other and by providing a reasonable setback for new residential and other particularly sensitive types of development from actively used agricultural land.
[PL 1989, c. 478, §1 (NEW).]

SECTION HISTORY

PL 1989, c. 478, §1 (NEW).

§52. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 1989, c. 478, §1 (NEW).]

1. Abutting land. "Abutting land" means real estate that shares a common boundary, or portion of a boundary, with land that is held in common ownership with land registered or being considered for registration under this chapter when the abutting real estate is within 50 feet of the land registered or being considered for registration. Abutting land includes, but is not limited to, land separated by a road and within 50 feet of land that is held in common ownership with land registered or being considered for registration under this chapter.
[PL 2011, c. 608, §1 (AMD).]

2. Agricultural chemicals. "Agricultural chemicals" means fungicides, insecticides, herbicides, and other pesticides.
[PL 1989, c. 478, §1 (NEW).]

3. Commercial farming. "Commercial farming" means the production of any farm product with the intent that that farm product be sold or otherwise disposed of to generate income.
[PL 2007, c. 649, §1 (AMD).]

3-A. Farm product. "Farm product" means those plants and animals useful to humans and includes, but is not limited to, forages and sod crops, grains and food crops, dairy products, poultry and poultry products, bees, livestock and livestock products and fruits, berries, vegetables, flowers, seeds, grasses, Christmas trees and other similar products.
[PL 2019, c. 310, §2 (AMD).]

4. Farmland. "Farmland" means any tract or tracts of land used for commercial farming:

A. That consists of 5 or more contiguous acres; [PL 1989, c. 478, §1 (NEW).]

B. That has produced a gross annual farming income of at least \$2,000 per year from the sales value of farm products in one of the 2, or 3 of the 5, calendar years preceding the date of application for registration under this chapter; and [PL 2011, c. 608, §3 (AMD).]

C. [PL 2011, c. 608, §3 (RP).]

D. That is land on which a farm product is produced. [PL 2011, c. 608, §3 (AMD).]

"Farmland" does not include land used for woodlots, homes, farm buildings, roads, lawns or any area covered with noncrop vegetation that borders abutting land.

[PL 2011, c. 608, §3 (AMD).]

5. Inconsistent development or use. "Inconsistent development or use":

A. Means development or use of land which:

(1) Is initiated after the registration of the abutting farmland under this chapter;

(2) Takes place upon abutting land within 100 feet of registered farmland; and

(3) Is of any of the following kinds or is used for any of the following purposes:

(a) Residential buildings;

(b) Public and private wells, drinking water springs and water supply intake points;

(c) School buildings and any playgrounds, athletic fields or other school facilities designed for use by children in the vicinity of school buildings;

(d) Commercial establishments dispensing or selling food; and

(e) Public and commercial campgrounds and picnic areas; and [PL 1989, c. 478, §1 (NEW).]

B. Does not include any:

(1) Expansion of an existing use, provided that, when the existing use includes a building, the expansion does not increase the total floor area of the building by more than 100% and the expansion is no closer to the registered farmland than is the existing building; or

(2) Replacement or reconstruction of an existing building or structure which is damaged or destroyed by fire or other casualty and which is replaced or reconstructed within 2 years of such damage or destruction. [PL 1989, c. 478, §1 (NEW).]

[PL 1989, c. 478, §1 (NEW).]

6. Incompatible use. "Incompatible use" means the development or use of abutting land for a well, drinking water spring or water supply intake point when that use is initiated on abutting land that is within 50 feet of farmland after that farmland has been registered under this chapter.

[PL 2011, c. 608, §4 (NEW).]

SECTION HISTORY

PL 1989, c. 478, §1 (NEW). PL 2007, c. 649, §§1, 2 (AMD). PL 2011, c. 608, §§1-4 (AMD). PL 2017, c. 94, §2 (AMD). PL 2019, c. 310, §2 (AMD).

§53-A. Eligibility

Any owner who intends to register land as farmland pursuant to section 53-B shall: [PL 1989, c. 478, §1 (NEW).]

1. Application. Submit an application for review by the soil and water conservation district in which the land is located in accordance with the provisions of Title 12, section 6-A. The owner shall use an application provided by the department; and

[PL 2011, c. 608, §5 (AMD).]

2. Notice of intent. Give notice of intent to register to all abutting landowners, as indicated on municipal or state tax records, a minimum of 15 days prior to submitting registration materials under section 53-B or 53-I. Abutters must be notified on a form provided by the department.

[PL 2011, c. 608, §5 (AMD).]

3. Farm and Open Space Tax Law.

[PL 2011, c. 608, §5 (RP).]

SECTION HISTORY

PL 1989, c. 478, §1 (NEW). PL 2011, c. 608, §5 (AMD).

§53-B. Registration in 1990 and 1991

An owner of land may register any designated portion of that land that qualifies as farmland under this chapter as follows. [PL 2011, c. 608, §6 (AMD).]

1. Registration dates. Registration must occur between June 1st and June 15th of 1990 or 1991. [PL 2011, c. 608, §6 (AMD).]

2. Place of registration. Registration must occur in the office of the municipality in which the land is located. In the event there is no official municipal office, the registration must take place with the town assessor. In the event the farmland is located in the unorganized territory, the registration must take place in the office of the county in which the land is located.

[PL 2011, c. 608, §6 (AMD).]

3. Effective date. A registration takes effect 15 days after receipt of notice by the municipality and abutting owners. If review proceedings are initiated under section 54, the registration is effective when upheld by the municipality.

[PL 2011, c. 608, §6 (AMD).]

4. Duration. A registration made under this chapter within the time frame provided under subsection 1 that has not been withdrawn in accordance with section 53-E remains in effect until April 1, 2013. To maintain registration under this chapter after April 1, 2013, a landowner must initially renew registration of the farmland in accordance with subsection 6 and every 5 years thereafter in accordance with section 53-I, subsection 4.

[PL 2011, c. 608, §6 (AMD).]

5. Registry of deeds. A copy of the municipal or county registration and any withdrawal bearing the certification of a notary public that the copy is a true and accurate copy must be recorded in the registry of deeds of the county in which the registered farmland or any abutting property is located, and must be indexed in the Grantor index under the entry "Farmland" and filed under "F."

[PL 2011, c. 608, §6 (AMD).]

6. Renewal. To renew a registration of farmland that was registered within the time frame provided under subsection 1, the landowner must submit to the department a copy of the notarized registration recorded with the registry of deeds under subsection 5 and comply with the renewal requirements under section 53-I, subsection 4.

A landowner who is unable to demonstrate compliance with all registration requirements under this section may apply for registration under section 53-I but after April 1, 2013 is no longer protected from inconsistent development under section 56, subsection 1.

[PL 2011, c. 608, §6 (NEW).]

SECTION HISTORY

PL 1989, c. 478, §1 (NEW). PL 2011, c. 608, §6 (AMD).

§53-C. Registration contents and purpose

The purpose of a registration is to provide a public record of the existence of actively used farmland in order to assist public disclosure and the setback of inconsistent development under section 56. A registration must include: [PL 2011, c. 608, §7 (AMD).]

1. Landowner. The name and address of the landowner;
[PL 1989, c. 478, §1 (NEW).]

2. Certification. Certification by the applicable soil and water conservation district that the land is farmland in accordance with the provisions of Title 12, section 6-A;
[PL 1989, c. 478, §1 (NEW).]

3. Farm and open space classification.
[PL 2011, c. 608, §7 (RP).]

4. Crops. The types of farm products that are grown on the farmland to be registered;
[PL 2011, c. 608, §7 (AMD).]

5. Acreage. The acreage of farmland to be registered;
[PL 1989, c. 478, §1 (NEW).]

6. Income.
[PL 2011, c. 608, §7 (RP).]

7. Maps. A copy of the municipal tax map, when available, and a statement of the tax parcel number or numbers that include the land at issue and any other maps needed to clearly show the location of the land, including a depiction of the distance between areas producing farm products and any property boundary within 100 feet for farmland registered within the time frame provided under section 53-B, subsection 1 and 50 feet for farmland registered pursuant to section 53-I;
[PL 2011, c. 608, §7 (AMD).]

8. Deed. A copy of the registrant's deed; and

[PL 1989, c. 478, §1 (NEW).]

9. Abutter. The names and addresses of each abutting landowner to whom notice is being sent pursuant to section 53-D.

[PL 1989, c. 478, §1 (NEW).]

Records of registered farmland must be maintained by each municipality and county registry of deeds in accordance with the provisions of this chapter. Registration must be on forms provided by the department. [PL 2011, c. 608, §7 (AMD).]

SECTION HISTORY

PL 1989, c. 478, §1 (NEW). PL 2011, c. 608, §7 (AMD).

§53-D. Notice of registration

An owner registering land as farmland shall notify all abutting landowners, as indicated on municipal or state tax records, by sending to the abutting landowners a statement of registration provided by the department. The owner shall send notification by certified mail, return receipt requested, within 2 days of submitting the registration in accordance with section 53-B, subsection 2. [PL 1989, c. 478, §1 (NEW).]

SECTION HISTORY

PL 1989, c. 478, §1 (NEW).

§53-E. Withdrawal

An owner of farmland shall withdraw from registration any farmland that no longer qualifies for registration under this chapter. An owner of registered farmland may withdraw farmland from registration at any time by filing a written notice of withdrawal in the office in which the farmland was registered and filing a notarized copy of the withdrawal notice for recording with the registry of deeds in the county or counties where the registration was recorded. Portions of a registered tract of farmland may be withdrawn. Withdrawal from registration under this chapter does not constitute withdrawal from classification under the Farm and Open Space Tax Law, Title 36, chapter 105, subchapter 10. Any abutter must be notified in the manner provided in section 53-D using a form provided by the department. [PL 2011, c. 608, §8 (AMD).]

SECTION HISTORY

PL 1989, c. 478, §1 (NEW). PL 2011, c. 608, §8 (AMD).

§53-F. Municipal registry

(REPEALED)

SECTION HISTORY

PL 1989, c. 478, §1 (NEW). PL 2011, c. 608, §9 (RP).

§53-G. Fees

(REPEALED)

SECTION HISTORY

PL 1989, c. 478, §1 (NEW). PL 2011, c. 608, §10 (RP).

§53-H. Forms

Forms provided by the department shall contain information to clarify the provisions of this chapter as follows. [PL 1989, c. 478, §1 (NEW).]

1. Application. The application shall include an outline of the registration process and indicate the information necessary for certification under section 53-A.

[PL 1989, c. 478, §1 (NEW).]

2. Registration. The registration form shall include an outline of the registration process, adequate space for the applicant to enter the components required by section 53-C and a separate sheet of information useful in filling out the form.

[PL 1989, c. 478, §1 (NEW).]

3. Notice of intent. A notice of intent shall include a list of permitted uses, a list of precluded uses, the name of a contact person who can provide more information and an outline of the registration process and the remedies available to the abutter.

[PL 1989, c. 478, §1 (NEW).]

4. Notice to abutter. A notice to abutters shall include a list of permitted uses, a list of precluded uses, an outline of the remedies available to the abutter and a copy of the registration form.

[PL 1989, c. 478, §1 (NEW).]

5. Notice of withdrawal. A notice of withdrawal shall include a map of the area withdrawn, a map of any area remaining under registration and an indication of any impact the withdrawal has on the abutter.

[PL 1989, c. 478, §1 (NEW).]

6. Renewal. The department shall provide forms for renewal of farmland registered within the time frame provided under section 53-B, subsection 1 and forms for renewal of farmland registered pursuant to section 53-I.

[PL 2011, c. 608, §11 (NEW).]

SECTION HISTORY

PL 1989, c. 478, §1 (NEW). PL 2011, c. 608, §11 (AMD).

§53-I. Registration and renewal on or after July 1, 2012

Beginning on July 1, 2012, an owner of land may register any designated portion of that land that qualifies as farmland under this chapter by filing the information required under section 53-C with the department and the appropriate registry of deeds in accordance with this section. [PL 2011, c. 608, §12 (NEW).]

1. Registry of deeds. Beginning on July 1, 2012, a landowner registering farmland under this chapter shall file a notarized copy of the completed registration form accompanied by the information required under section 53-C with the registry of deeds of the county or counties in which the registered farmland and any abutting property is located.

[PL 2011, c. 608, §12 (NEW).]

2. Effective date. A registration is effective upon filing with the registry of deeds under subsection 1.

[PL 2011, c. 608, §12 (NEW).]

3. Duration. A registration made under this chapter remains effective for 5 years from the effective date unless withdrawn earlier in accordance with section 53-E.

[PL 2011, c. 608, §12 (NEW).]

4. Renewal. A landowner may renew a registration under this chapter for successive 5-year periods. To renew a registration, a landowner must notify abutters as provided under section 53-A, subsection 2 and submit a completed renewal application for certification by the soil and water conservation district under Title 12, section 6-A. Upon receiving certification from the soil and water conservation district, the landowner must file a notarized copy of the renewed registration with the registry of deeds under subsection 1 and submit a copy to the department. When a landowner submits an application for renewal and a review under Title 12, section 6-A prior to a registration lapsing, the registration on that farmland remains in effect until the application for renewal is approved or denied.

[PL 2011, c. 608, §12 (NEW).]

SECTION HISTORY

PL 2011, c. 608, §12 (NEW).

§54. Proceedings

Notwithstanding Title 30-A, sections 2691 and 4353, an abutting landowner or the municipality may initiate any of the following proceedings with the municipal board of appeals, or, if none, with the municipal officers. The department shall be notified of any action initiated under this section or section 57 in accordance with Title 30-A, section 4353, subsection 3. [PL 1989, c. 478, §1 (NEW).]

1. Proceedings to determine eligibility of farmland for registration. If the eligibility of any land for registration is questioned, the owner of the farmland shall have the burden of proving to the municipal body that the farmland meets the requirements for registration under this chapter. A proceeding under this subsection must commence within 15 days of the day notice of registration is received by the party initiating the proceeding.

[PL 1989, c. 478, §1 (NEW).]

2. Proceedings to determine continued eligibility of registered farmland. Once in any 2-year period, a proceeding may be initiated to determine if the registered farmland continues to meet the requirements for registration under this chapter. The owner of registered farmland shall bear the burden of proof.

[PL 1989, c. 478, §1 (NEW).]

3. Appeals. A decision made by a municipal body under this section may be appealed by any aggrieved party as allowed by law for appeals of decisions made by a municipal board of appeals.

[PL 1989, c. 478, §1 (NEW).]

4. Assistance from department. The department shall provide technical assistance and issue written advisory opinions in connection with the determinations a municipal body must make under this section.

[PL 1989, c. 478, §1 (NEW).]

5. Order to withdraw. If the department or a municipality finds that farmland registered under this chapter is not eligible for registration, the department or municipality shall order the landowner to file for withdrawal under section 53-E.

[PL 2011, c. 608, §13 (NEW).]

SECTION HISTORY

PL 1989, c. 478, §1 (NEW). PL 2011, c. 608, §13 (AMD).

§55. Disclosure required

(REPEALED)

SECTION HISTORY

PL 1989, c. 478, §1 (NEW). PL 2011, c. 608, §14 (RP).

§56. Prohibited acts

1. Inconsistent development. An owner of abutting land may not undertake or allow any inconsistent development upon or use of land within 100 feet of registered farmland that was properly registered within the time frame provided under section 53-B, subsection 1 and has been continuously and properly registered since the initial registration.

[PL 2011, c. 608, §15 (AMD).]

1-A. Incompatible use. Except as provided in section 57, an owner of abutting land may not undertake or allow an incompatible use within 50 feet of farmland properly registered under section 53-I.

[PL 2011, c. 608, §15 (NEW).]

2. Building permit. Except as provided in section 57, a municipality may not issue a building or use permit allowing any development or use that is prohibited under subsection 1 or 1-A.

[PL 2011, c. 608, §15 (AMD).]

3. Exemption. This section does not apply to:

A. For land adjacent to farmland registered within the time frame provided under section 53-B, subsection 1, a lot or parcel of land that, together with any adjoining lot or parcel in the same ownership, was one acre or less in area as of January 1, 1988; [PL 2011, c. 608, §15 (AMD).]

A-1. For land adjacent to farmland registered pursuant to section 53-I, a lot or parcel of land that, together with any adjoining lot or parcel in the same ownership, was one acre or less in area as of January 1, 2012; [PL 2011, c. 608, §15 (NEW).]

B. Those subdivisions for which a completed application as described in former Title 30, section 4956, subsection 2, paragraph C-1, or Title 30-A, section 4403, subsection 3, has been filed or approved in the 2 years preceding the registration; or [PL 1989, c. 478, §1 (NEW).]

C. A lot on which inconsistent development or incompatible use has been allowed by permit granted by a state or local government in the 2 years preceding the registration. [PL 2011, c. 608, §15 (AMD).]

[PL 2011, c. 608, §15 (AMD).]

SECTION HISTORY

PL 1989, c. 478, §1 (NEW). PL 2011, c. 608, §15 (AMD).

§57. Variance

An owner of real estate may apply to the municipal zoning board of appeals or other municipal body hearing zoning appeals, or, in the case of areas within its jurisdiction, the Maine Land Use Planning Commission, for a variance permitting an inconsistent development upon or incompatible use of land that is otherwise prohibited under section 56. Notwithstanding Title 30-A, section 4353, subsection 4, a variance may be issued if adherence to section 56 renders a parcel of land subdivided prior to registration of the farmland unusable for residential purposes. Any variance granted for such a purpose must be conditioned to provide the maximum feasible setback from the abutting registered farmland. [PL 2011, c. 608, §16 (AMD); PL 2011, c. 682, §38 (REV).]

SECTION HISTORY

PL 1989, c. 478, §1 (NEW). PL 2011, c. 608, §16 (AMD). PL 2011, c. 682, §38 (REV).

§58. Enforcement and penalties

1. Enforcement. Proceedings to enforce any provision of this chapter may be brought by a municipality, county or any aggrieved person. Such proceedings may be initiated in accordance with the provisions of the Maine Rules of Civil Procedure, Rule 80B, as applicable.

[PL 1989, c. 478, §1 (NEW).]

2. Penalties. Any violation of this chapter shall be punishable as follows.

A. [PL 2011, c. 608, §17 (RP).]

B. Any inconsistent development upon or use of land in violation of this chapter may be removed or discontinued by order of the court in a proceeding to enforce this chapter, and the court may

fashion any other appropriate equitable remedy consistent with the purposes of this chapter. [PL 1989, c. 478, §1 (NEW).]

C. Any person who violates any provisions of this chapter shall, in addition to the other provisions of this section, be subject to the civil penalties and enforcement procedures for land use laws and ordinances in Title 30-A, section 4452. [PL 1989, c. 478, §1 (NEW).]
[PL 2011, c. 608, §17 (AMD).]

SECTION HISTORY

PL 1989, c. 478, §1 (NEW). PL 2011, c. 608, §17 (AMD).

§59. Other laws not affected

Nothing in this chapter may affect the legal rights, remedies or liabilities of persons arising out of negligence or other wrongful acts or omissions involving the use of pesticides or other agricultural chemicals. [PL 1989, c. 478, §1 (NEW).]

SECTION HISTORY

PL 1989, c. 478, §1 (NEW).

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