

*Chapter 7-25*

**AGRICULTURE PROTECTION AREAS**

**Sections:**

- 7-25-101** DEFINITIONS.
- 7-25-102** PROPOSAL FOR CREATION OF AGRICULTURE PROTECTION AREA.
- 7-25-103** NOTICE OF PROPOSAL FOR CREATION OF AGRICULTURE PROTECTION AREA-RESPONSES.
- 7-25-104** REVIEW OF PROPOSAL FOR CREATION OF AGRICULTURAL PROTECTION AREA.
- 7-25-105** REVIEW AND ACTION ON PROPOSAL.
- 7-25-106** CRITERIA TO BE APPLIED IN EVALUATING PROPOSALS FOR THE CREATIONS OF AGRICULTURE PROTECTION AREAS.
- 7-25-107** ADDING LAND TO OR REMOVING LAND FROM AGRICULTURE PROTECTION AREA.
- 7-25-108** REVIEW OF AGRICULTURE PROTECTION AREAS.
- 7-25-201** LIMITATION ON ZONING REGULATIONS.
- 7-25-202** NUISANCES.
- 7-25-203** EMINENT DOMAIN RESTRICTIONS

**Section 7-25-101** DEFINITIONS.

*The following definitions apply only to agriculture protection areas administered under this Chapter.*

- (1) (a) *“Agriculture Production” means production for commercial purposes of crops, livestock, and livestock products.*
- (b) *“Agriculture Production” includes the processing or retail marketing of any crops, livestock, and livestock products when more than 50% of the processed or merchandised products are produced by the farm operator.*
- (2) *“Agriculture Protection Area” means: a geographic area created under authority of this Chapter that is granted the specific legal protections contained in this Chapter and in Chapter 17-41 of the Utah Code Annotated 1953, as amended.*
- (3) *“Crops, Livestock, and Livestock Products” includes:*
  - (a) *Land devoted to the raising of useful plants and animals with a reasonable expectation of profits including:*
    - (i) *forages and solid crops; or*
    - (ii) *grains and feed crops; or*
    - (iii) *livestock; or*
    - (iv) *trees and fruit; or*
    - (v) *vegetables, nursery floral and ornamental stock.*

*(b) Land devoted to and meeting the requirements and qualifications for payments or other compensation under a crop land retirement program with an agency of the state or federal government.*

*(4) "Proposal Sponsors" means the owners of land in agriculture production who are sponsoring the proposal for creating an agriculture protection area.*

(99-73, ADDED, 12/23/1999)

**Section 7-25-102 PROPOSAL FOR CREATION OF AGRICULTURE PROTECTION AREA.**

(1) A proposal to create an agricultural protection area shall be filed with the city Recorder on behalf of the City Council.

(2) A proposal must be signed by a majority of all owners of real property, and the owners of a majority of land area in agriculture production within the boundaries of the proposed agriculture protection area. The proposal sponsors shall have the burden of showing that the requirements of this Section have been met.

(3) The proposal shall identify:

(a) The boundaries of the land proposed to become part of an agriculture protection area;

(b) Any limits on the type of agriculture production to be allowed within the agriculture protection area;

(c) The names of the owners of record of the land proposed to be included within the agriculture protection area or the tax parcel number or account number identifying each parcel; and

(d) The number of acres of each parcel within the agriculture protection area.

(4) (a) No proposal will be accepted by the City Recorder unless the total Agriculture Protection Area contains 20 or more contiguous acres.

(b) Each proposed agriculture protection area shall consist of contiguous parcels.

(5) The proposed agriculture protection area may include within its boundaries land that is used for roadways, dwelling sites, public parks, or other non-agricultural use, provided, however, that the non-agricultural land constitutes no more than ten percent of the total acreage within the proposed agricultural area.

(6) A proposal shall be submitted to the Community and Economic Development Division for review. The Community and Economic Development Division shall determine whether the proposal meets the requirement of this Section.

(99-73, Added, 12/23/1999)

**Section 7-25-103 NOTICE OF PROPOSAL FOR CREATION OF AGRICULTURE PROTECTION AREA-RESPONSES.**

(1) The City Council shall provide notice of the proposal to create an agriculture protection area by:

(a) Publishing notice in a newspaper having general circulation within the City and posting notice at five public places within or near the proposed agriculture protection area.

(2) The notice shall contain:

(a) A statement that a proposal for a creation of an agriculture protection area has been filed with the City Council;

- (b) A statement that the proposal will be open to the public inspection at City Hall, and the times when the proposal will be available for inspection;
  - (c) A statement that any person or entity effected by the establishment of the area may within 15 days of the day of the notice, file with the City Council:
    - (i) Written objection to the proposal; or
    - (ii) A written request to modify the proposal to exclude land from or add land to the proposed agriculture protection area.
  - (d) A statement that the City Council will submit the proposal to the County Advisory Committee and the City Planning Commission for review and recommendations; and
  - (e) A statement that the City Council will hold a public hearing to discuss and hear public comment on:
    - (i) The proposal to create an agriculture protection area;
    - (ii) The recommendations of the County Advisory Committee and the Planning Commission; and
    - (iii) Any request for modification of the proposal and any objection to the proposal.
- (3) (a) Any person wishing to modify the proposal for the creation of the agriculture protection area shall, within 15 days after the date of the notice file a written request for modification of the proposal which identifies specifically the land that should be added to or removed from the proposal.
- (b) Any person wishing to object to the proposal for the creation of the agricultural protection area shall, within 15 days of the date of the notice, file a written objection to the creation of the agricultural protection area.

(99-73, Added, 12/23/1999)

**Section 7-25-104 REVIEW OF PROPOSAL FOR CREATION OF AGRICULTURAL PROTECTION AREA.**

- (1) After 15 days of the date of the notice the City Council shall refer the proposal and any objections or proposed modifications to the proposal to the County Advisory Committee and the Planning Commission for their review, comments, and recommendations.
- (2) (a) Within 45 days after the receipt of the proposal the Planning Commission shall submit a written report to the City Council that:
  - (i) Analyzes and evaluate the effect of the creation of the proposed areas on planning policies and objectives of the City.
  - (ii) Analyzes and evaluates the proposal by applying the criteria contained in ion 7-25-106;
  - (iii) Recommends any modifications to the land to e included within the proposed agricultural protection area;
  - (iv) Analyzes and evaluates any objections to the proposal; and
  - (v) Includes a recommendation to the City Council to either accept, accept modify, or reject the proposal.

(b) The City Council shall consider a failure of the Planning Commission or the County Advisory Committee to submit a written report within 45 days under Subsection 2(a) as a recommendation of that committee to approve that proposal as submitted.

(99-73, Added, 12/23/1999)

**Section 7-25-105 REVIEW AND ACTION ON PROPOSAL.**

(1) After receipt of the written report from the County Advisory Committee and the Planning Commission or after the 45 days have expired, whichever is earlier, the City Council shall:

- (a) Schedule a public hearing;
- (b) Provide notice of the public hearing by:
  - (i) Publishing notice in a newspaper having general circulation within the City; and
  - (ii) Post notice at five public places designated by the City Council within or near the proposed agriculture protection area; and
- (c) Insure that the notice includes:
  - (i) Time, date, and place of the public hearing on the proposal;
  - (ii) A description of the proposed agricultural protection area;
  - (iii) Any proposed modifications to the proposed agriculture protection area;
  - (iv) A summary of the recommendations of the County Advisory Committee and the Planning Commission; and
  - (v) A statement that interested persons may appear at the public hearing and speak in favor of or against the proposal, any modifications of the proposal, or the recommendations of the County Advisory Committee and the Planning Commission.

(2) (a) The City Council shall convene the public hearing at the time, date, and place specified in the notice; and

(b) Take verbal or written testimony from interested persons.

(3) (a) Within 120 days of the submission of the proposal the City Council shall approve, modify and approve, or reject the proposal.

(b) The creation of an agriculture protection area is effective at the earlier of:

- (i) The City Council's approval of a proposal; or
- (ii) 120 days after the submission of a proposal complying with Section 7-25-102 if the City Council has failed to approve, or reject that proposal within that time.

(4) (a) In order to give constructive notice of existence of the agriculture protection area to all persons who have, may acquire, or seek to acquire an interest in the land adjacent to the agriculture protection area within ten days of the creation of an agriculture protection area the City Council shall file an executed document containing a legal description of the agriculture protection area with the

- (i) County Recorder; and
- (ii) The Planning Commission

(b) If a legal description of the property being included within the agriculture protection area is available through the County Recorder's Office, City Council shall use that legal description in it's executed document.

(5) Within ten days of the recording of the agriculture protection area the City Council shall:

- (a) Send written notification to the Commissioner of Agriculture and Food that the agriculture protection area has been created; and
- (b) Include in the notification:
  - (i) the number of land owners owning land within the agriculture protection area;
  - (ii) the total acreage of the area;
  - (iii) date of approval of the area; and
  - (iv) date of recording.
- (6) The City Council's failure to record the notice required under Subsection (4) or send notification under Subsection (5) does not invalidate the creation of the agriculture protection area.
- (7) City Council may consider the cost of recording the notice under Subsection (4) and the cost of sending notification under Subsection (5) in establishing a fee for the proposal.

(99-73, added, 12/23/1999)

**Section 7-25-106 CRITERIA TO BE APPLIED IN EVALUATING PROPOSALS FOR THE CREATIONS OF AGRICULTURE PROTECTION AREAS.**

In evaluating a proposal and determining whether or not to create or recommend a creation of an agriculture protection area, the Planning Commission and the City Council shall apply the following criteria.

- (1) Whether or not the land is currently being used for agriculture production;
- (2) Whether or not the land is zoned for agricultural use;
- (3) Whether or not the land is viable for agricultural production;
- (4) The extent and nature of existing or proposed farm improvements; and
- (5) Anticipated trends in agricultural and technological conditions.

(99-73, Added, 12/23/1999)

**Section 7-25-107 ADDING LAND TO OR REMOVING LAND FROM AGRICULTURE PROTECTION AREA.**

- (1) (a) Any owner may add land to an existing agriculture protection area by
  - (i) filing a proposal with the City Council; and
  - (ii) Obtaining approval of the City Council for addition of land to the area.
- (b) The City Council will comply with the provisions for creating an agriculture protection area and determine whether or not to accept the proposal.
- (2) (a) Any owner may remove land from an agriculture protection area by filing a petition for removal of the land from the agriculture protection area with the City Council.
- (b) City Council shall:
  - (i) Grant the petition for removal of land from an agriculture protection area even if removal of the land would result in an agriculture protection area less than the number of acres established by the City Council as the minimum under Section 7-25-102.

(ii) In order to give constructive notice of the removal to all persons who may acquire or may seek to acquire an interest in the land or adjacent to the agriculture protection area and the land removed from the agriculture protection area the City shall file a legal description of the boundaries of the agriculture protection area with the County Recorder and the Planning Commission.

(iii) The remaining land of the agriculture protection area is still an agriculture protection area.  
(99-73, Added, 12/23/1999)

### **Section 7-25-108 REVIEW OF AGRICULTURE PROTECTION AREAS.**

(1) In the twentieth calendar year after it's creation, each agriculture protection area shall be reviewed by the City Council.

(2) (a) In the twentieth year the City Council shall:

(i) Request the Planning Commission and County Advisory Board to submit recommendations about whether the agriculture protection area should be continued, modified, or terminated;

(ii) At least 120 days before the end of the calendar year hold a public hearing to discuss whether the agriculture protection area should be continued, modified, or terminated;

(iii) Give notice of the hearing using the same procedures required by Section 7-25-102; and

(iv) After the public hearing continue, modify, or terminate the agriculture protection area.

(b) If the City Council modifies or terminates an agriculture protection area it shall file an executed document containing a legal description of the agriculture protection area with the County Recorder.

(3) If the City Council fails affirmatively to continue, modify or terminate the agriculture protection area in the twentieth calendar year, the agriculture protection area is considered to be re-authorized for another twenty years.

(99-73, Added, 12/23/1999)

### **Section 7-25-201 LIMITATION ON ZONING REGULATIONS.**

*The City shall not change the zoning designation of or zoning regulations effecting land within an agriculture protection area unless it receives written approval for the change from all of the land owners within the agriculture protection area effected by the change.*

(99-73, ADDED, 12/23/1999)

### **Section 7-25-202 NUISANCES.**

(1) The City shall implore that any of it's laws or ordinances that define or prohibit a public nuisance exclude from the definition or prohibition, any agriculture activity or operation within an agriculture protection area conducted using sound agriculture practices unless the activity or operation bears a direct relationship to public health or safety.

(2) For any new subdivision development located in whole or in part within 300 feet of the boundary of an agriculture protection area, the owner of the development

shall provide notice on any plat filed with the county Recorder the following notice:  
This property is located within the vicinity of an established agriculture protection area in which normal agricultural uses and activities now or in the future be conducted on property included within the agriculture protection area. The use and enjoyment of this property is expressly conditioned on exception of any annoyance or inconvenience which may result from such normal agricultural uses and activities.

(99-73, Added, 12/23/1999)

### **Section 7-25-203 EMINENT DOMAIN RESTRICTIONS**

(1) The City may not condemn for any purpose any land that is within an agriculture protection area that is being used for agricultural production unless it has attained approval according to the procedures and requirements of this Section. The condemning agency wishing to condemn property within the agriculture protection area shall file a notice of condemnation with the City Council and the agriculture protection area's Advisory Board at least 30 days before filing an eminent domain complaint. The City Council and the agriculture protection area's Advisory Board shall:

- (a) Hold a public hearing on the proposed condemnation;
- (b) Publish notice of the time, date, place, and purpose of the public hearing in a newspaper of general circulation in the City.
- (c) Post notice of the time, date, place, and purpose of the public hearing.
- (d) Conspicuous public places within or near the agriculture protection area.

(2) (a) If the condemnation is for highway purposes or for disposal of solid or liquid waste materials, the City Council and the Advisory Board may approve the condemnation only if there is no reasonable and prudent alternative to the use of the land within the agriculture protection area for that project.

(b) If the condemnation is for any other purpose the City Council and the Advisory Board may approve the condemnation only if the proposed condemnation would not have an unreasonably adverse effect upon preservation and enhancement of agriculture within the agriculture protection area.

(c) No reasonable and prudent alternative to the use of the land within the agriculture protection area of the project.

(3) (a) Within 60 days of the notice of condemnation the City Council and the Advisory Board shall approve or reject the proposed condemnation.

(b) If the City Council and the Advisory Board fail to act within 60 days or such further times as the City Council may establish, condemnation shall be considered rejected.

(4) The City Council or the Advisory Board may request that the County or City attorney bring an action to enjoin any condemner of violating the provisions of this Section.

(Manual, Added, 04/24/2000)