

AGRICULTURAL LANDS – LEGISLATIVE CHANGES UNDER Ch. 20, SLA 1997

Effective date of legislation August 5, 1997

	OLD LAW	Ch. 20, SLA 1997
TITLE INTEREST	Agricultural rights only; all other rights retained by DNR.	Fee title (less mineral rights) subject to a perpetual covenant running with the land that limits use of the land to agricultural purposes and uses.
DEFINITION OF AGRICULTURAL PURPOSES	Production of plants and animals; leave fallow or in natural state; use of gravel; removal and sale of timber to bring land into production; farm-related improvements including housing for the landowner.	Same, except housing for farm laborers added. The new definition omits mention of fallow or natural lands, but the farm conservation plan can still designate such areas, just as the farm conservation plan under the old law allowed.
DEVELOPMENT SCHEDULE/ CLEARING	For parcels conveyed under the state homestead law (AS 38.09), the applicant must clear and prepare for cultivation either 25% of the land classified for agricultural use or 50% of the cropland soils, whichever is less, within 5 years of issuance of the entry permit. Agricultural lands sold under other state laws do not have a statutory or regulatory clearing requirement; however, as a condition of sale, DNR has typically required the buyer to clear and prepare for cultivation 25% of the cropland within 5 years of purchase.	No change.
FARM CONSERVATION PLAN	Required as part of the contract and the patent. Can be modified with the approval of the director. Technically, the farm conservation plan could be used by DNR as a means of administrative enforcement to assure that patented lands are used for agricultural purposes.	No change.
FARMSTEAD	Improvements limited to 1 farmstead area. Maximum farmstead size of 5 acres, with 20 acres possible for unusual or large scale farming projects.	No limit on size or location of improved areas.
# DWELLINGS	Limited to 1 single-family dwelling per original parcel purchased from the state. Dwellings are not allowed on subdivided parcels.	No limits other than condominiums are prohibited, and housing must be for landowners or farm laborers.
SUBDIVISION	Minimum size of 40 acres. Except for the original farmstead, new parcels over 640 acres in size, and parcels originally conveyed under the state homestead law (AS 38.09), improvements are not allowed on the subdivided parcels.	Same as old law, except as follows. Limit of 4 parcels per parcel purchased from state. Subdivision is limited to one time. Subdivided parcels may not be further subdivided. No limit on size or location of improved areas. At the time of subdivision, the subdivider must pay DNR for the right to construct housing on the new parcels, even if no present plans to build housing. Homesteads and parcels over 640 acres in size are excepted from the payment. The payment is delayed so long as a subdivided parcel remains in the ownership of the immediate family. The payment for each new parcel is \$4,000 or the appraised value of the right to build housing, whichever is less. For parcels at Pt. McKenzie sold after the effective date of the act, the payment is always determined by appraisal. The \$4,000 fee is current for 1997 but will be adjusted annually for inflation.
INCIDENTAL USES	Incidental uses that do not cause the agricultural use to diminish or be discontinued are allowed.	No change.
SALE, ASSIGNMENT, AND SUBLEASE	DNR has first right of refusal to meet price and terms offered to the owner.	No first right of refusal.
REVERSION/ FORFEITURE	DNR can bring suits for trespass on the remaining title interests, and breach of covenants. Termination and re-entry by DNR possible. From a practical standpoint, DNR never terminated a patent.	The state, a municipality, or a resident can bring suit to enforce the agricultural covenant, provided the suit is brought within 6 years after the cause of action has accrued.