

BELLE PLAINE TOWNSHIP ORDINANCE NO. 2

AN ORDINANCE LIMITING LIABILITY OF AGRICULTURAL OPERATIONS

THE TOWNSHIP OF BELLE PLAINE ORDAINS:

SECTION I. Purpose and Interpretation

It is the policy of Scott County and Belle Plaine Township to conserve, protect, and encourage the development and improvement of its agricultural land for the production of food and other agricultural products. The Township recognizes that the Scott County Zoning Ordinance which permits subdivision of land zoned as agricultural has increased residential use in the Township. The Township finds that when nonagricultural land uses extend into agricultural areas, agricultural operations often become the subject of nuisance suits. As a result, agricultural operations are sometimes curtailed or cease entirely, and many farmers may be prevented from making investments in farm improvements. It is the purpose of this section to reduce the loss to the Township of its agricultural resources by further limiting the circumstance under which agricultural operations may be deemed to be a nuisance, in addition to those limitations set forth in Minnesota Statute Section 561.19.

SECTION II. Definitions

For the purposes of this section, the following terms have the meanings given them:

- a) "Agricultural operation" means a facility consisting of real or personal property used jointly or severally and its appurtenances for the production of crops, livestock, poultry, dairy products or poultry products, but not a facility primarily engaged in processing agricultural products. Agricultural operation shall also include certain farm activities and uses as follows: chemical and fertilizer spraying, farm machinery noise, manure collection, disposal, spreading or storing, open storage of machinery, feedlots, odors produced from farm animals, crops or products used in farming.
- b) "Established date of operation" means the date on which the agricultural operation commenced. If the agricultural operation is subsequently expanded or significantly altered, the established date of operation for each expansion or alteration is deemed to be the date of commencement of the expanded or altered operation.
- c) "Family Farm" means an unincorporated farm unit owned by one or more persons or spouses of persons related to each other within the third degree of kindred according to the rules of civil law, at least one of whom is residing or actively engaged in farming on the unit, or a "family farm corporation," as that term is defined in section 500.24, subdivision 2.

SECTION III. Agricultural Operation Not a Nuisance

An agricultural operation which is a part of a family farm is not and shall not become a private or public nuisance after six years from its established date of operation if the operation was not a nuisance at its established date of operation. The provisions of this subdivision do not apply: (a) to a condition or injury which results from the negligent or improper operation of an agricultural operation or from operations contrary to commonly accepted agricultural practices or to

applicable state or local laws, ordinances, rules, or permits; (b) when an agricultural operation causes injury or direct threat of injury to the health or safety of any person; (c) to the pollution of, or change in the condition of, the waters of the state or the overflow of waters on the lands of any person; (d) to an animal feedlot facility with a swine capacity of 1,000 or more animal units as defined in the rules of the pollution control agency for control of pollution from animal feedlots, or the cattle capacity of 2,500 animals or more; or (e) to any prosecution for the crime of public nuisance as provided in section 609.74 or to an action by public authority to abate a particular condition which is a public nuisance.

SECTION IV. Existing Contract

This section shall not be construed to invalidate any contracts or commitments made before April 18, 1989.

SECTION V. Severability

If a provision of the section, or application thereof to any person or set of circumstances, is held invalid or unconstitutional, the invalidity shall not affect other provisions or applications of this section which can be given effect without the invalid provision or application. To that end, the provisions of this section are declared to be severable.

This ordinance shall become effective from and after the date of its publication according to law.

Adopted this 18th day of April, 1989.

BOARD OF SUPERVISORS
TOWN OF BELLE PLAINE

By _____
Chairman

ATTEST:

Town Clerk