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## Introduction

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### Introduction

One of the most important distinctions in the various classifications of property is the distinction between homesteads and non-homestead property.

Even though current residential classification rates have eliminated the difference between homesteads and non-homesteads (which once had much different class rates), homestead status is important for many features of the tax system because it determines eligibility for programs such as property tax refunds, the disabled veteran's market value exclusion, the blind/disabled classification, and the senior citizen property tax deferral program. It can also affect tax delinquency and forfeiture procedures.

The idea of having a "homestead" is important to the taxpayer and therefore it must be important to the assessor. Improper classification of homesteads causes taxpayers to pay incorrect tax amounts and may cause taxpayers to harbor resentment for the property tax system as a whole and those who administer it. Therefore, assessors should be knowledgeable of the homestead laws so that homesteads are imposed effectively and uniformly across the state.

If a property is granted homestead, the property qualifies for the **Homestead Market Value Exclusion** and the **1a or 2a homestead classification**. The Homestead Market Value Exclusion is discussed in Module 2 – Valuation, while classes 1a and 2a are both discussed in Module 3 – Classification.

For general Homestead Classification information see the [Homestead Classification Informational Page](#).

General Rules and Guidelines

## Types of Homesteads

In general, a **homestead** is granted to a property that is used as a “principal or primary place of residence.”

Two classifications of property qualify for homestead status: residential and agricultural property. Residential property can qualify for either an owner-occupied homestead or a residential relative homestead. Agricultural property may be eligible for an owner-occupied homestead, relative homestead, or a special agricultural homestead, depending on the circumstances. These situations will be covered in greater detail later in the manual.

### 1. Residential Homestead

- a. [Owner-occupied homestead](#)
- b. [Residential relative homestead](#)

### 2. Agricultural homestead

- a. [Owner-occupied homestead](#)
- b. [Agricultural relative homestead](#)
- c. [Special agricultural homestead](#)

Homestead is a fact situation and based on three main requirements:

- Ownership
- Occupancy
- Residency

It should be noted that it is not the assessor’s job to determine **how** a property owner qualifies for homestead. Rather, the property owner or occupant must prove that they meet the requirements for homestead. Homestead requirements are prescribed in state law. Local jurisdictions, including towns, cities, and counties, have no authority in law to impose additional or fewer requirements for homestead.

When property owners apply for homestead, assessors must verify the three main requirements before they can grant the homestead. The applicant must be the owner or relative of the owner, they must occupy the property, and they must be a Minnesota resident. There are exceptions to these requirements, which are covered later in this module.

Owners and occupants must be Minnesota residents to qualify for homestead. Verification of income tax returns would assure the assessor that a property owner does, at a minimum, pay income tax in Minnesota and therefore would assist with determining whether a property owner is a Minnesota resident. The Department of Revenue may verify if an individual who is requesting or receiving a homestead has or has not filed a tax return as a Minnesota resident for the most recent year the information is available. The assessor will need to send a request for this information to [proptax.questions@state.mn.us](mailto:proptax.questions@state.mn.us).

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**General Rules and Guidelines**

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Other indicators that may be helpful for verifying Minnesota residency include:

- Where is the taxpayer registered to vote?
- Where is the taxpayer's mail delivered?
- Does the taxpayer have another residence in Minnesota for which they can or do claim homestead?
- Has the taxpayer applied for or received any rent credits?
- What is the taxpayer's address on the taxpayer's motor vehicle registration?
- What is the taxpayer's address on their driver's license? (Per Minnesota Statutes, [section 171.11](#), all licensed drivers must change their driver's license within 30 days of an address or name change.)
- What is the address on the taxpayer's hunting or fishing license and is the license a resident or non-resident license?

It is important to stress that property owners do not have to meet all the above factors. They are simply listed here to assist assessors in making a final determination as to the probability that the property owner meets the Minnesota residency requirement.

**Part Year Resident**

There are situations where a property owner is considered a "part year" resident of Minnesota for income tax purposes. When a property owner is considered a "part year" resident for income tax purposes, that means the owner has either:

- Moved to or from Minnesota during the tax year and established residency **or**
- Spent at least 183 days in Minnesota and they either rent, own, maintain, or occupy a residence suitable for year-round use that is equipped with its own cooking and bathing facilities.

Assessors need to request a copy of the M1NR form to verify this "part year" residency status. If the property owner is considered a "part year" resident on the M1NR form, then they would be considered a MN resident for homestead purposes. In these situations, the county should continue to verify that the applicant meets the criteria for homestead, and if the applicant's residency status changes, homestead treatment should be re-evaluated.

The department always recommends that the assessor follow a reasonableness test and consider whether the request for homestead is reasonable. Where the answer is close and the assessor is in doubt, the assessor should deny or pull the homestead status of the property and allow the property owner to provide the correct documentation to prove that they do qualify for homestead status.

Current law only requires a one-time application to initiate the homestead classification for occupied homesteads. After the homestead is successfully established, the assessor may

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## General Rules and Guidelines

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require the applicant to file a new application at any time if there is a reason to question the accuracy of the existing homestead. This is an area where good judgment is crucial. If an assessor feels the homestead is not appropriate (e.g. the homeowners are homesteading their summer cabin), they should require a new homestead application to be completed.

### General Rules and Guidelines

There are general rules that must always be used when trying to determine whether a property qualifies for homestead. An assessor should always approach a property with these general rules in mind but should also know that there are exceptions to the general rules in certain circumstances. Some types of homesteads, such as [Special Agricultural Homesteads](#), have their own set of special rules or provisions that must be followed in addition to the general rules. Special agricultural homesteads are covered later in this module.

#### General Rules

- A person may claim only one homestead.
- The owner/occupant must be a Minnesota resident to get homestead.
- In most cases, residential property owned by an entity does not qualify for homestead.
- The two main types of homesteads that are owner-occupied are **residential owner-occupied homestead** and **agricultural owner-occupied homestead**.
- Property held by a [grantor under a trust](#) may be eligible for homestead if all other requirements are met.
  - In such cases, the **grantor** of the trust is considered to be the “**owner**” of the property for homestead purposes.
  - If the grantor occupies the trust-held property, it would be considered to be an owner-occupied homestead (either agricultural or residential).
  - Trust-held property can receive relative homestead if occupied by a qualifying relative of the grantor of the trust. If a relative or surviving relative of the grantor occupies and uses the property as a homestead, the property may be eligible for homestead treatment.
- Homestead property includes property that is used for purposes of the homestead but is separated from the homestead by a road, street, lot, waterway, or other similar intervening property.
  - The term “used for purposes of the homestead” includes, but is not limited to, uses for gardens, garages, or other outbuildings which are commonly associated with a homestead.
  - It does not include vacant land that is held primarily for future development.
  - To receive homestead on the non-contiguous property, the owner must apply to the assessor.

## General Rules and Guidelines

- See "[Homestead Carryover/Extension](#)" for more information.
- Whenever there is a name change or an ownership transfer of a homestead property, the assessor should remove the homestead from the property as of the next assessment year unless a new homestead application is filed to verify that the property continues to qualify for homestead.
- A **full-year homestead** is granted to a property that is occupied by its owner on January 2 of the assessment year for taxes payable the following year.
- A "**Mid-year**" homestead is granted to property that is occupied by its owner any time between January 3 and December 31 of the assessment year for taxes payable the following year.
  - [Application](#) must be made by December 31.
  - "Mid-year" homesteads have the same benefits as full-year homesteads.
- In the case of **manufactured homes** assessed as personal property (located on leased land), the homestead must be established, and application must be made by **May 29** of the assessment year.
- Most homesteads do not require an annual application (except for special agricultural homesteads).
- If the Commissioner of Revenue determines that a person is a non-Minnesota resident or part-year resident for income tax purposes, the commissioner may disclose the person's name, address, and Social Security number or individual taxpayer identification number to the assessor if it is believed that the person may have claimed or received homestead.
- No political subdivision may impose any requirements not contained in [Chapter 272](#) or [Chapter 273](#) to disqualify property from being classified as a homestead if the property otherwise meets the requirements for homestead treatment under [Chapter 272](#) and [Chapter 273](#).

Primary Statutory Reference: [273.124](#)



## General Rules and Guidelines

**Both Ownership and Occupancy Required**

- To qualify for a homestead, a property must be both owned and occupied by the owner or qualifying relative of the owner as of January 2 for a full year homestead. For mid-year homesteads, the property must be occupied as of December 31 of the assessment year. [Application](#) must be made by December 31 of the assessment year to qualify for homestead.
- A buyer's interest under a Contract for Deed is sufficient to meet the ownership requirement. However, typically an "Earnest Money Contract" or "Purchase Agreement" does not ordinarily constitute enough of an ownership interest to qualify for homestead.
  - Some rare situations may arise when such instruments may constitute more of an interest in the property than the title of the document indicates.
  - In these cases, the department recommends the assessor solicit the advice of the county attorney as to the legal implications.
- Deeds or contracts for deed are not required to be recorded to receive homestead. However, the assessor should examine the deed or contract for deed to determine whether it is a valid purchase and keep a copy of the document attached to the application for homestead.
- Transfer on death deeds are to be treated similarly to life estate property. Basically, the grantor would retain enough ownership interest to qualify for homestead treatment, but the grantee would not (unless the grantee is a qualifying relative of the grantor, in which case the property could receive a relative homestead). Please remember that all other homestead requirements (occupancy, Minnesota residency, etc.) must still be satisfied.
- In all cases, a **Certificate of Real Estate Value must be filed**, even if the deed is not recorded, to receive homestead if the price paid for the property is greater than \$3,000.
- The occupancy of a property for homestead purposes must be actual and substantial.
  - A minimal occupancy and use of a property, merely to obtain a tax advantage, falls short of statutory requirements.
  - An owner may be away from a property for a reasonable length of time without losing homestead benefits provided the property is maintained as a homestead awaiting the owner's return.
- In most cases, an owner **cannot** rent out their property to another person and still retain homestead status. There are exceptions to this which will be explored later in this module.

Primary Statutory Reference: [273.124](#); [272.115](#)

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**General Rules and Guidelines**

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**Homestead Carryover/Extension**

Sometimes, property owners will own additional parcels of non-contiguous property that may or may not qualify to be linked to their base parcel, which is occupied, for homestead purposes.

Some examples may include a vacant lot with a garden that is located down the street from a taxpayer's home, a garage located on a site within close proximity to the taxpayer's home, or a storage shed that is located down the block from a taxpayer's home.

If such parcels are in close proximity to the taxpayer's home, are used in conjunction with the homestead, and the taxpayer makes proper application to the assessor, homestead may be extended.

Agricultural homesteads may link other non-contiguous agricultural parcels to their established main parcel if certain requirements are met. This is discussed later in the module under *Agricultural Homesteads*.

If a property is a duplex or triplex, and one of the units is used for homestead purposes by the owner or a qualifying relative of the owner the entire property is deemed to be used for homestead purposes.

**Homestead Accretion**

When non-homestead property is purchased after the assessment date but on or before December 31, it is eligible for a mid-year homestead provided the owner makes timely application and the property is used in conjunction with the primary homestead.

The parcel(s) may be contiguous or noncontiguous. This will mainly apply to unimproved land; however, it is conceivable that a property owner may purchase a non-homestead parcel with a garage across the street from the primary homestead parcel which would then be used in conjunction with the homestead.

This policy on accretion of homesteads does not apply to the acquisition of additional non-homestead houses. A second residential structure, located on a separate parcel, cannot be used in conjunction with a homestead. The additional parcel must be owned on December 31 and used in conjunction with the primary homestead. Application for homestead must be made no later than December 31 of the assessment year for taxes payable the following year.

Primary Statutory Reference: [273.124, subd. 14](#); [273.13, subd. 23](#)

General Rules and Guidelines

Homestead Qualifications Chart

Type of homestead:	Who must meet the requirements:	Requirements		
		Minnesota Resident	Own	Occupy
Residential homestead	Owner	X	X	X
	Spouse of owner	X	X <sup>1</sup>	X
Residential relative homestead	Owner	N/A	X	N/A
	Spouse of owner	N/A	X <sup>1</sup>	N/A
	Relative <sup>2</sup>	X	N/A	X
	Spouse of relative	X	N/A	X
First-time homeowner	First-time homeowner <sup>3</sup>	X	X	X
	Spouse of first-time homeowner	X	X <sup>1</sup>	X
	Relative co-owner	N/A	X	NA
Special circumstances allowing spouses to have two homesteads <sup>4</sup>	Owner	X	X	X
	Spouse of owner	X	X <sup>1</sup>	N/A
Agricultural relative homestead <sup>2, 5</sup>	Owner <sup>6</sup>	X	X	N/A
	Spouse of owner	X	X <sup>1</sup>	N/A
	Relative <sup>2, 5</sup>	X	N/A	X
	Spouse of relative	X	N/A	X

<sup>1</sup>The spouse also is considered an owner for property tax purposes even if he/she is not listed as an owner on the deed.

<sup>2</sup>“Relative” for the purposes of a **residential or occupied agricultural** homestead means a parent, stepparent, child, stepchild, grandparent, grandchild, brother, sister, uncle, aunt, nephew, or niece. This relationship may be by blood or marriage.

<sup>3</sup>Only applies to first-time purchasers, whether married or single, or to a person who had previously been married and is purchasing as a single individual for the first time. The first-time homeowner must be required, as a condition of the financing agreement, to have a relative shown on the deed as a co-owner.

<sup>4</sup>The four specific circumstances which allow spouses to have two homesteads are listed in Minnesota Statutes, [section 273.124, subdivision 1, paragraph \(e\)](#): (1) marriage dissolution proceedings; (2) legal separation; (3) employment or self-employment in another location (if the spouse's place of employment or self-employment is at least 50 miles away from the other spouse's place of employment, and the homesteads are at least 50 miles from each other); or (4) other personal circumstances causing the spouses to live separately, not including an intent to obtain two homestead classifications for property tax purposes.

<sup>5</sup> “Relative” for the purposes of a **special agricultural (unoccupied)** homestead is a grandchild, child, sibling, or parent of the owner of the agricultural property or of the spouse of the owner of the property. This relationship may be by blood or marriage.

<sup>6</sup> The owner also must not claim another agricultural homestead in Minnesota, and only one agricultural relative homestead is allowed per family.

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## Homestead Application

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### Homestead Application

A person who meets the requirements for homestead must file an application with the county assessor to initially obtain the homestead benefits. The Commissioner of Revenue prescribes the format and content of all homestead applications.

- Owners are not required to file an annual application.
  - If the property is granted homestead for any assessment year, the property will remain homesteaded until the property is sold or transferred, or the owners, spouse of the owner, or the qualifying relative of the owner no longer occupies the property.
  - The assessor may, at any time, require a new application to verify the homestead status.
  - Special agricultural homesteads have separate rules for when properties must re-apply.
- The Department of Revenue strongly recommends that **relative homestead** applications be filed on an annual basis since occupancy often changes in these situations.
- By law, owners are required to inform the assessor's office within 30 days that they have sold and/or vacated the property and no longer use the property as a homestead. The assessor should then remove the homestead as of the next assessment date unless a new application is submitted before the December 31 deadline.
- The application must be signed by all owners/qualifying relatives who occupy the property and the application must be returned to the county assessor for the property to receive homestead treatment.
- Every property owner applying for homestead must furnish to the county assessor the Social Security number or individual taxpayer identification number of:
  - each **occupant** who is listed as an owner of the property on the deed of record,
  - the name and Social Security number or individual taxpayer identification number of each occupying owner's spouse
- Social Security numbers and individual taxpayer identification numbers, state or federal tax returns or tax return information, including the federal income tax Schedule F, or affidavits or other proof of property owners submitted to support a claim of homestead are private data on individuals under Minnesota Statutes, [section 13.02, subdivision 12](#). However, apart from that section, the private data may be disclosed to the Commissioner of Revenue or to the county treasurer for the purposes of proceeding under the Revenue Recapture Act to recover personal property taxes.

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### Homestead Application

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- Property owners applying for homestead must have Social Security numbers or individual taxpayer identification numbers and must be Minnesota residents, but do not need to be U.S. citizens.
- In the case of a residential relative homestead application, both the qualifying relative and the spouse of the qualifying relative must provide their Social Security numbers or individual taxpayer identification numbers.
- Applicants must also provide the name and address (but not Social Security number or individual taxpayer identification number) of:
  - each owner that **does not occupy** the property
- The application must be signed by each owner who **occupies** the property and by each owner's spouse who occupies the property or, in the case of property that qualifies as a relative homestead, by the qualifying relative.
- If the property owner occupies the homestead, the property owner's spouse may not claim another property as a homestead unless the property owner and the property owner's spouse file an affidavit or other proof required by the assessor stating that the property qualifies for a special [spousal homestead](#) as provided by law. These are covered later in this module.
- Upon sale or transfer of homesteaded property, a Certificate of Real Estate Value must be timely filed with the County Auditor as indicated under Minnesota Statutes, [section 272.115](#).
- The homestead application must inform the applicant of the requirement that they must inform the assessor within 30 days if the property sells or transfers, or if the owner, spouse of the owner, or qualifying relative no longer occupies the property as their homestead. A penalty will result for failing to notify the assessor and the property will lose its current homestead status.

Primary Statutory Reference: [273.124, subd. 13](#)

#### Rescinding a Homestead Application

A homestead application is a legal document. By completing one and securing the corresponding tax benefit, taxpayers are certifying that they are residents of Minnesota, the property they are claiming as their homestead is their primary place of residence, and they have a sufficient ownership interest to qualify for homestead benefits.

Minnesota Statutes, [section 609.41](#), also states that anyone giving false information in order to avoid or reduce tax obligations is subject to a fine of up to \$3,000 and/or up to one year in prison.

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## Homestead Application

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Therefore, the Department of Revenue is of the opinion that it is inappropriate for taxpayers to attempt to retroactively change their homestead status and a homestead application cannot be rescinded or undone by an applicant once that application has been made.

Primary Statutory Reference: [273.124](#); [609.41](#)

### Identity Theft

If there are situations where an assessor finds that multiple individuals apply for homestead with the same Social Security number and both have identical Social Security cards, this is likely a situation of identity theft. Should you encounter this situation, our recommendation is to deny both homestead applications. Notify both taxpayers in writing of the denial and encourage them to contact their local police departments to report the situation. Tell them that they can apply for abatements once the police investigation is completed, and it can be satisfactorily determined who qualifies for homestead. The local police should be able to guide them from there. Once the situation has been satisfactorily resolved, the appropriate taxpayer can reapply for homestead and apply for any applicable abatements.

### Individual Taxpayer Identification Numbers

Any individual who is not eligible to obtain a Social Security number may apply for an individual taxpayer identification number (ITIN). An ITIN is a nine-digit number issued by the Internal Revenue Service (IRS) to individuals who are required to have a United States taxpayer identification number but who do not have and are not eligible to obtain a Social Security number. An ITIN may be used in place of Social Security numbers when applying for a homestead.

Individuals who do not have permission to work but need an ITIN for homestead purposes must visit, call or write an IRS office and request Form W-7. The form is also available online at [www.irs.gov](http://www.irs.gov).

Primary Statutory Reference: [273.124, subd. 13](#)

### Electronic Homestead Applications

Electronic homestead applications have become more and more prevalent as technology has become more widely used and available. The department is accepting of modern and innovative ways to communicate with taxpayers. Property tax administrators do not require department approval to implement electronic homestead applications, but must comply with the Commissioner of Revenue's prescribed manner, format and content of electronic homestead application.

During 2015 the department issued guidance clarifying that electronic signatures are acceptable in accordance with Minnesota Statutes, section 325L.07 paragraph (c). There are several ways to confirm identities online; counties should confer with their information technology providers and county attorneys to assure the appropriate option is used.

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### Homestead Application

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Applications should be able to accept signatures of multiple owners or occupants, including spouses.

All fields included on the department prescribed homestead application **must** also be collected by an electronic application. The application **must not** expand data collection beyond those fields required by assessors to make a determination on homestead qualification by the submitter.

Counties **must** assure that the data received via electronic homestead applications is maintained in a secure environment. Counties should consult with their information technology provider, county attorney and their data steward to assure the data is held securely at all checkpoints.

Data from electronic applications may be stored electronically and current applications must be retained until the property sells or a new application is submitted. These applications must be reproduced in the format prescribed by the Commissioner of Revenue on demand. When a property sells or a new homestead application is submitted for the property the prior application should be retained for 10 years or in compliance with the counties retention policy.

Primary Statutory Reference: [273.124, subd. 13](#)

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## Duplicate Homestead

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### Audits Performed by Commissioner of Revenue

#### Duplicate Homestead List

Each year, counties must provide the Commissioner of Revenue with a list that includes:

- the name and Social Security number or individual taxpayer identification number of each property owner and his/her spouse that occupies a property, or
- the qualifying relative and his/her spouse that occupies the property.

The commissioner generates a list that indicates if the same Social Security number or individual taxpayer identification number has been used to homestead more than one property in the State of Minnesota and also to detect improper claims of property tax refunds or renter's credits by owners or relatives of owners.

Counties are required to investigate these situations to determine if the homesteads were properly claimed. Failure on the part of property owners to notify the assessor within 30 days that the property has been sold or transferred, or that the owner, spouse of the owner, or the qualifying relative is no longer occupying the property as a homestead, shall result in a penalty, and the property will lose its homestead.

If the homestead has been improperly claimed, the county auditor must determine the amount of homestead benefits the owner received. The owner must reimburse the county for the difference between the homestead and non-homestead tax and pay a penalty equal to 100 percent of the homestead benefits.

If the Commissioner of Revenue believes a property owner may be claiming a **fraudulent homestead**, the commissioner shall notify the appropriate county or counties.

- Within 90 days of the notification, the county assessor must investigate to determine if the homestead classification was properly claimed.
- If the property owner does not qualify, the county assessor must notify the county auditor who will determine the amount of homestead benefits, including appropriate credits and/or exclusions, which were improperly allowed.
- The county auditor will then notify the person who owned/occupied the improperly homesteaded property at the time the improper application was filed, demanding reimbursement of the homestead benefits plus a penalty equal to 100 percent of the homestead benefits.
- The person notified may appeal the county's determination in Tax Court within 60 days of the date of notice from the county.
- If no appeal is filed within 60 days and the repayment of homestead benefits and penalty are not paid, the county auditor shall certify the amount of taxes and penalty to



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### Duplicate Homestead

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the county treasurer and the treasurer will add interest to the unpaid homestead benefits and penalty amounts.

If the person notified is **the current owner** of the property, the treasurer may add the total amount of the homestead benefits, penalty and interest, and costs to the ad valorem taxes otherwise payable on the property by including the amounts on the property tax statement for the following year. The amount added under this paragraph shall include interest accrued through December 31 of the year preceding the taxes payable year for which the amounts are first added. These amounts, when added to the property tax statement become a lien on the property.

If the person notified is **not the current owner** of the property, the treasurer may collect the amounts due under the [Revenue Recapture Act in Chapter 270A](#), or use any of the powers granted in [sections 277.20](#) (lien for personal property tax) and [277.21](#) (levy and distraint), to enforce payment of the homestead benefits, penalty, interest, and costs. The amount(s) due should be treated as if they were delinquent tax obligations of the person who owned the property at the time the application related to the improperly-allowed homestead was filed.

The treasurer may relieve a prior owner of personal liability for the homestead benefits, penalty interest, and costs, and instead extend those amounts on the tax lists against the property to the extent that the current owner agrees in writing.

On all demands, billings, property tax statements, and related correspondence, the county must list and state separately the amounts of homestead benefits, penalty, interest and costs being demanded, billed or assessed.

Any amount of homestead benefits recovered by the county are distributed as follows:

- to the county, city or town, and school district where the property is located in the same proportion that each taxing districts levy was to the total of the three taxing districts levy for the current year;
- any amount recovered attributable to taconite homestead credit shall be transmitted to the St. Louis County Auditor to be deposited in the taconite property tax relief account;
- any amount attributable to the supplemental homestead credit is transmitted to the Commissioner of Revenue for deposit into the general fund of the state treasury; and
- the total penalty collected must be deposited into the county's general fund.

If a property owner has applied for more than one homestead and the county assessor cannot determine which property should properly receive the homestead, the county assessor should refer the information to the Commissioner of Revenue and the commissioner will make the determination and notify the counties within 60 days.

## Duplicate Homestead

In addition to the lists of homestead properties, the Commissioner of Revenue may ask the counties to furnish lists of all properties and owners of record. The Social Security numbers and Federal Identification Numbers that are maintained by a county or city assessor for property tax administration purposes, and that may appear on the lists continue to retain their classification as private data; may also be viewed, accessed, and used by the county auditor or treasurer of the same county for the limited purpose of assisting the commissioner in the preparation of data samples as provided in Minnesota Statutes, [section 270C.12](#) (tax information sample data).

Primary Statutory Reference: [273.124, subd. 13a, 13b, 13c, 13d](#)

### Property Tax Refund File

On or before April 30 of each year, each county must provide the Commissioner of Revenue with the following data, by electronic means, for each parcel of homestead property:

- the property identification number assigned to the parcel for taxes payable in the current year;
- the name and Social Security number or individual taxpayer identification number of each occupant of homestead property who is the owner, owner's spouse, qualifying relative of the owner, or spouse of the qualifying relative of the owner;
- the classification of the property under [section 273.13](#) for taxes payable in both the current year and prior years;
- whether or not the property was classified as a homestead for taxes payable in the current year due to occupancy by a qualifying relative of the owner or by the spouse of a qualifying relative;
- the property taxes payable (as defined in [section 290A.03, subd. 13](#)), for both the current and prior years;
- the market value of new improvements to the property first assessed for taxes payable in the current year;
- the assessor's estimated market value of the property for taxes payable in both the current and prior years;
- the taxable market value of the property for taxes payable in both the current and prior years;
- whether there are delinquent property taxes owed on the property and
- other information deemed necessary by the commissioner.

This information will be used as appropriate under the law, including for the detection of improper property tax refund claims by owners or relatives of owners.

Primary Statutory Reference: [273.124, subd. 13d](#)

### “Mid-Year” Homesteads Established After the Assessment Date

Any property that was not used for the purpose of a homestead on the assessment date of January 2 but was used for the purpose of a homestead on December 31 of a given year, may be granted either an agricultural or a residential mid-year homestead. This may happen in a variety of ways. For example:

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**Mid-Year Homestead**

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- a new home is built on a vacant site after January 2 and occupied by the new owner and homesteaded before December 31;
- a non-homestead property is purchased and occupied by a new owner who meets the qualifications for homestead before December 31; or
- a home that receives a fractional homestead on January 2 is purchased by an owner who qualifies for a full homestead before December 31.

The previous examples assume the new owners make application by December 31.

If the homestead has not been requested as of December 31, the assessor will classify the property as non-homestead for the current assessment for taxes payable in the following year.

Primary Statutory Reference: [273.124, subd. 9](#)

Homestead Notice

**Homestead Notice**

Each year, no later than December 1, assessors are required to publish a public notice in a newspaper of general circulation within the county requesting anyone who has purchased a home to file a homestead application. The Department of Revenue will typically send an annual reminder notice with suggested text. However, it is still the responsibility of the assessor to make sure this requirement is met. The suggested plain language text is below.

**\*IMPORTANT PROPERTY TAX HOMESTEAD NOTICE\***

*This will affect your 20XX property taxes and eligibility for Property Tax Refund.*

**Have you purchased or moved into a property in the past year?**

Contact your county assessor to file a homestead application if you or a qualifying relative occupy the property as a homestead on or before December 31, 20XX.

**What is a qualifying relative?**

For unoccupied agricultural property, a qualifying relative includes the child, grandchild, sibling, or parent of the owner or owner’s spouse.

For occupied agricultural or residential property, a qualifying relative also includes the owner’s uncle, aunt, nephew, or niece.

**When do I apply?**

You must apply on or before December 31, 20XX.

Once homestead is granted, annual applications are not necessary unless they are requested by the county assessor.

Contact the assessor by December 31, 20XX if the use of the property you own or occupy as a qualifying relative has changed during the past year.

If you sell, move, or for any reason no longer qualify for the homestead classification, you are required to notify the county assessor within 30 days of the change in homestead status.

Spruce County Assessor’s Office (XXX) 555-1234

Primary Statutory Reference: [273.124, subd. 9](#)

**Relative Homestead**

**Relative Homesteads**

There are two types of relative homesteads: residential relative homesteads and agricultural relative homesteads. Both are described in this section. It is important to remember the following when administering relative homesteads:

- Spouses are not considered relatives for homestead purposes. The Social Security number or individual taxpayer identification number of an occupying owner is required on the application.
- There are different qualifying relatives for unoccupied agricultural property than for residential/occupied agricultural property.
- Properties owned by an entity (corporation, partnership, limited partnership, LLC, LLP, etc.) cannot qualify for a relative homestead – since they are entities and cannot have relatives.
- Trust-held property can receive relative homestead if occupied by a qualifying relative or surviving relative of the *grantor* (creator) of the trust.

If at any time, a different relative from the one listed on the application subsequently occupies the property, the owner must notify the assessor within 30 days of the change in occupancy. The department strongly recommends verifying relative homesteads on an annual basis since they are subject to frequent changes.

**Residential Relative Homesteads**

Residential real estate that is occupied and used for the purposes of a homestead by a relative of the owner is a homestead to the extent of the homestead treatment that would be provided if the related owner occupied the property. Qualifying relatives for residential and occupied agricultural property, which may be by blood or by marriage, include:

Parents	Brothers
Step-parents	Sisters
Children	Aunts
Step-children	Uncles
Grandparents	Nieces
Grandchildren	Nephews

To qualify for a residential relative homestead, the owner does not need to be a Minnesota resident, but the qualifying relative must be a Minnesota resident.

Neither the owner nor the qualifying relative who occupies the property may claim a property tax refund under Chapter 290A unless the property is jointly owned and one of the joint owners occupies the property as his or her principal place of residence.

**Property that has been classified as seasonal residential recreational property at any time while it has been owned by the current owner or spouse of the current owner cannot receive a homestead unless it is occupied as a homestead by the owner.** (It also cannot be reclassified

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## Relative Homestead

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as class 4bb residential non-homestead.) This also applies to property that would have been classified as seasonal residential recreational property at the time the residence was constructed.

### Minor Relative Homesteads

Minnesota Statute 273.124 does not prohibit minors from qualifying for homestead as a qualifying relative. Ultimately, the occupant or owner confers homestead status on the property, but the property has homestead status, not the person. Therefore, if the minor meets all the requirements, the property can qualify for relative homestead.

Minors may occupy a property with an adult who is **not the owner** or relative of the owner of the property. In those cases, if the minor is the **only qualifying relative of the owner that occupies the property**, then they may qualify the property for relative homestead as long as the requirements outlined below are met.

In cases where a minor is listed as a qualifying relative of the owner on a homestead application, it is important to verify that the child is using the property as their primary place of residency before granting the homestead. In making this determination an applicant could be asked to provide:

- The location of the school that the child is attending
- A copy of the divorce decree that provides information on where the minor will primarily reside
- If deemed necessary, an affidavit from the parents or legal guardians to be filed attesting to the primary residency of the minor

Keep in mind that a property owner occupying the property cannot have a relative also occupying the property apply for a relative homestead. In that case, the owner-occupant must be the applicant. A qualifying minor cannot qualify for relative homestead in that situation.

We have advised in the past that relative homesteads are subject to frequent changes and therefore we encourage you to verify these homesteads on an annual basis. In the case of relative minor homesteads, we would similarly recommend more frequent verification as these situations may also have frequent changes.

If a minor applicant signs a relative homestead application themselves, nothing prohibits a county from accepting that signature for the purposes of processing the homestead application. However, we would advise that due diligence is exercised when reviewing applications with a minor's signature. The minor's social security number should be reported on the application and collected by the county. If the minor applicant is too young to sign the form, or cannot sign for any reason, counties should accept a parent or legal guardian's signature with appropriate confirmation of signing authority.

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## Relative Homestead

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### Agricultural Relative Homesteads

Agricultural property that is occupied and used for the purposes of a homestead by a qualifying relative of the owner may be given an agricultural relative homestead on the house, garage, farm buildings, other structures, agricultural land, and contiguous rural vacant land under the same ownership. Such property that is occupied and used for the purposes of a homestead by a qualifying relative of the owner is a homestead to the same extent as the homestead that would be provided if the related owner occupied the property, providing that all the following criteria are met:

- the relative **who occupies** the property is a qualifying relative.
  - For occupied agricultural homesteads, “qualifying relatives” include parents, siblings, step-parents, children, step-children, grandparents, grandchildren, aunts, uncles, nieces, and nephews.
  - For unoccupied (special) agricultural homesteads, qualifying relatives include grandchildren, children, siblings, or parents of the owner or the owner’s spouse.
- the owner is a Minnesota resident;
- neither the owner nor his/her spouse receives another agricultural homestead in Minnesota; and
- the owner of the agricultural property is limited to only one agricultural homestead per family.

If all the requirements for an agricultural relative homestead are not met, the house, garage, and first acre of a residence that is located on agricultural land may be eligible for a residential relative homestead if those requirements are satisfied.

Neither the qualifying relative nor the owner of the property may claim a property tax refund for a homestead occupied by a relative unless the property is owned jointly and one of the joint owners occupies the property as his or her primary residence.

Neither the owner nor the qualifying relative may claim another agricultural homestead in Minnesota. This is limited to one agricultural homestead per family.

Primary Statutory Reference: [273.124, subd. 1](#)

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## Spousal Homestead

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### Spousal Homesteads

Each year we receive inquiries from assessors and the public regarding application of the homestead laws when a married couple owns property but the spouses are living apart and/or are applying for homestead benefits on more than one property. The information contained within this manual reflects our best understanding of the homestead laws in cases where a married couple owns property either together or separately and are claiming homestead for one or more properties.

Minnesota Statutes, [section 273.124](#), contains the rules for determining when a homestead can be granted. Generally, a property that is owned by a Minnesota resident and is occupied and used by that person as a principal place of residence qualifies for homestead benefits. However, there are situations where the homestead status can get difficult to administer. For example:

- If a property is owned by several individuals, all of whom are Minnesota residents, and all occupy and use the property as a principal place of residence, the property will qualify for a full regular homestead.
- If a property is owned by more than one person and at least one person occupies and uses the property as a principal place of residence but at least one person does not occupy the property as a principal place of residence, the property will qualify for only a fractional regular homestead.
- Relative homestead provisions are generally not applicable in spousal circumstances because the law does not define a spouse as a relative.
- For a married couple, the most common situation finds the couple living together in a home owned by either one or both of them. No matter how a property is titled, whether in one name or both, a married couple is considered one entity for property tax purposes. The property qualifies for a full regular homestead if the couple occupies the home as their principal place of residence. **Therefore, if a property owner is married and does not live with their spouse, they are not entitled to a full homestead (with certain exceptions listed below).**

Minnesota Statutes, [section 273.124, subdivision 1, clause \(e\)](#) provides some exceptions to this rule. It reads:

“(e) In the case of property owned by a property owner who is married, the assessor must not deny homestead treatment in whole or in part if only one of the spouses occupies the property and the other spouse is absent due to:

- (1) marriage dissolution proceedings,
- (2) legal separation,



Spousal Homestead

- (3) employment or self-employment in another location, or
- (4) other personal circumstances causing the spouses to live separately, not including an intent to obtain two homestead classifications for property tax purposes.

To qualify under clause (3), the spouse's place of employment or self-employment must be at least 50 miles distant from the other spouse's place of employment, and the homesteads must be at least 50 miles distant from each other."

Also, section [273.124, subdivision 1, clause \(f\)](#), reads in part:

- "(f) The assessor must not deny homestead treatment in whole or in part if: ...
- (2) in the case of a property owner who is married, the owner or the owner's spouse or both are absent due to residence in a nursing home, boarding care facility, or an elderly assisted living facility property as defined in [section 273.13, subdivision 25a](#), and the property is not occupied or is occupied only by the owner's spouse."

Note that the above exception for a nursing home solely applies to the property **owner** or owner's spouse. A qualifying relative receiving relative homestead **would not** be able to retain the homestead if they stopped occupying the property due to residence in a nursing home, boarding care facility, or assisted living facility.

The following are examples designed to illustrate some of these rules and exceptions.

**Example 1:** Spouse 1 and Spouse 2 own Home A with both names on the deed but Spouse 2 lives somewhere else on the assessment date. Often the assessor will not be aware that Spouse 2 is no longer living in the home. Most likely the assessor learns the facts when Spouse 2 files an application for homestead benefits on Home B. The assessor denies the homestead application telling Spouse 2 that since a homestead already exists, the applicant cannot qualify for a second homestead. The applicant tells the assessor the spouses are divorcing.

**Questions:** Is Home A eligible for homestead benefits? Is Home B eligible for homestead benefits?

**Discussion:** Both Home A and Home B are eligible for full regular homesteads IF a divorce petition has actually been filed in the District Court. As part of the divorce proceedings, the Court will determine the property rights in Home A and appropriate deeds will be drafted and recorded, removing one spouse's name from the title to Home A.

### Spousal Homestead

Until the divorce is finalized and title to Home A transferred, the Social Security number or individual taxpayer identification number of the Spouse 2 will appear on the homestead records for both properties and will cause a “duplicate record” report when the Department runs the statewide homestead files.

**Tip:** The petition for dissolution must be filed with the Court before the second property qualifies for homestead benefits. A mere assertion that the couple intends to divorce is not sufficient.

**Example 2:** Same as Example 1 but the divorce petition has not been filed.

**Questions:** Is Home A eligible for homestead benefits? Is Home B eligible for homestead benefits?

**Discussion:** Home A and Home B are each eligible for one-half owner-occupied homestead.

The law ([Section 273.124, subdivision 13, clause \(c\)](#)) is clear and says that Spouse 2 may not claim another property as a full homestead unless the conditions in subdivision 1, clause (e), exist and the assessor has sufficient proof that the conditions exist. In this example, since the petition for dissolution has not been filed, Homes A and B can only receive one-half homestead benefits each based on occupancy by one spouse. Even if the assessor knows Spouse 1 and Spouse 2 personally and knows that they intend to file the petition soon, neither home is eligible for full homestead.

**Tip:** Remember that Home B may not qualify on the assessment date but if the petition is filed in Court before December 31 of the assessment year and Spouse 2 files the homestead application by December 31, the assessor may grant Spouse 2 a midyear homestead for that assessment.

**Example 3:** Home A is owned by Spouse 1 and Spouse 2 and is receiving full homestead benefits. Spouse 2 files an application for homestead benefits on Home B. Spouse 2 advises the assessor that Spouse 1 and Spouse 2 are “separated.”

**Questions:** Is Home A eligible for homestead benefits? Is Home B eligible for homestead benefits?

**Discussion:** Minnesota Statutes, [section 518.06](#), provides that “a decree of legal separation shall be granted when the court finds that one or both parties need a legal separation.” A decree of separation does not dissolve the marriage but does determine the rights and responsibilities of husband and wife arising out of a marital relationship.

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### Spousal Homestead

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While many spouses are separated, meaning that the spouses do not live together, a court-ordered legal separation is not common. One spouse may institute a proceeding in District Court seeking a legal separation.

The analysis for homestead purposes follows the analysis in Examples 1 and 2. Until a decree of separation is issued by the court, Spouse 2 has not met the conditions in section 273.124, subdivision 1, clause (e) and, therefore, cannot have a separate full homestead. As Spouse 2 is not residing in Home A, Home A can receive only half of the homestead benefit and Home B is eligible to receive one-half homestead based upon the occupancy by Spouse 2.

If a decree of separation has been issued by the court, Spouse 1 and Spouse 2 can establish separate homesteads and Home A and Home B qualify for full regular homestead benefits. The Social Security number or individual taxpayer identification number of Spouse 2 will appear on the records for both properties and will cause a “duplicate record” report when the Department runs the statewide homestead files.

**Tip:** The assessor should review the decree as issued by the court to establish that a legal separation has occurred. If the decree has not been issued as of the assessment date but is issued before December 31 of the assessment year and Spouse 2 files the homestead application prior to December 31, the assessor may grant the homestead for the current assessment.

**Example 4:** Home A is owned by Spouse 1 and Spouse 2 and is receiving full homestead benefits. Spouse 2 files an application for homestead benefits on Home B. Spouse 2 advises the assessor that Spouse 2 is now employed in another location and is establishing a separate homestead at the new location. Spouse 1 will continue to reside in Home A. Spouse 1 and Spouse 2 are not divorcing, and they are not legally separated.

**Questions:** Is Home A eligible for homestead benefits? Is Home B eligible for homestead benefits?

**Discussion:** Subdivision 1, clause (e), does provide for the possibility of separate full homesteads if spouses live apart because of employment. The place of employment or self-employment of Spouse 2 must be at least 50 miles from the place of employment or self-employment of Spouse 1 AND Home A must be at least 50 miles away from Home B. Both Spouse 1 and Spouse 2 must be gainfully employed or gainfully self-employed. If the assessor is satisfied that the facts support this exception, both Home A and Home B qualify for full regular homesteads.

If Spouse 1 remains in Home A but is not gainfully employed, Home B does qualify for only half homestead benefits and Home A also qualifies for only a half regular homestead.

Spousal Homestead

**Tip:** Both spouses must be gainfully employed or self-employed and the places of employment must be at least 50 miles apart and the homes must be at least 50 miles apart. The applicant is responsible for supplying whatever evidence the assessor needs to establish the qualification for homestead benefits. Remember that the Social Security numbers or individual taxpayer identification numbers of Spouse 1 and Spouse 2 will appear on the records for both properties and will cause a “duplicate record” report when the Department runs the statewide homestead reports.

**Example 5:** Spouse 1 and Spouse 2 were recently married. Spouse 1 owns, operates and resides on the 160-acre Farm A. Farm A is classified as an agricultural homestead. Spouse 2 owns, operates and resides on the 160-acre Farm B. After the marriage, Spouse 1 intends to live on Farm A and manage the operations there. Spouse 2 will continue to live on Farm B and manage the operations there.

**Questions:** Is Farm A eligible for homestead benefits? Is Farm B eligible for homestead benefits?

**Discussion:** If the farms are over 50 miles apart from each other, both farms qualify for full agricultural homesteads. Farm A is the place of employment for Spouse 1 and Farm B is the place of employment for Spouse 2. If the assessor is satisfied that the facts support the exception, the assessor should extend homestead benefits to both properties.

If the farms are not 50 miles away from each other, each property qualifies for only one-half homestead based on its occupying spouse.

**Tip:** The Social Security numbers or individual taxpayer identification numbers for both Spouse 1 and Spouse 2 will appear on the records of both properties and will cause a “duplicate record” report when the statewide homestead report is run.

**Example 6:** Spouse 1 and Spouse 2 own and occupy Home A as their principal residence but Spouse 1 must now move to a nursing home, a boarding care facility or an elderly assisted living facility, either on a short term or longer-term duration.

**Question:** Is Home A eligible for a full regular homestead?

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**Spousal Homestead**

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**Discussion:** Home A is eligible for regular homestead treatment based on [section 273.124, subdivision 1, paragraph \(f\), clause \(2\)](#). Even if both Spouse 1 and Spouse 2 moved to a nursing home, a boarding care facility or an elderly assisted living facility *and* Home A is not occupied by anyone, Home A continues to qualify for a full homestead. The statute considers this a temporary absence from Home A, even if the absence extends for quite some time, if no one else moves into Home A. If Home A is rented to someone, it no longer qualifies for homestead treatment because Home A is no longer available for the return of Spouse 1 and/ or Spouse 2. If a son or daughter or other relative of Spouse 1 or Spouse 2 stays in Home A on a short-term basis while visiting Spouse 1 or Spouse 2, we would not consider this short use as an abandonment of the homestead by Spouse 1 or Spouse 2.

**Tip:** If one or both spouses are absent because they are residing in a nursing home, boarding care facility, or an elderly assisted living facility, the law presumes that the homestead is not abandoned if the home remains available for their return. If the home is offered for sale but not yet sold, the homestead remains. Generally, if the home is leased to others, the home no longer qualifies for a regular homestead. However, in some cases, if the nursing home, boarding care facility, or elderly assisted living facility fees are being paid by a governmental assistance program, the program will require that the home be offered for lease and any payments received used to defray the governmental assistance. Our position is that the homestead benefits continue if the leasing arrangement is a requirement of the governmental program.

**Example 7:** Spouse 1 and Spouse 2 own and occupy Home A and receive a full regular homestead. Spouse 2 purchases Home B and applies for homestead benefits. Spouse 1 and Spouse 2 are not divorcing, are not separated, and are not working at least 50 miles apart. Spouse 2 advises the assessor that Spouse 2 can no longer live with Spouse 1 because Spouse 1 battered Spouse 2.

**Question:** Is Home B eligible for a full regular homestead?

**Discussion:** The Department has advised the assessor to grant a full regular homestead on Home B. [Section 273.124, subdivision 1, clause \(e\)](#) allows one additional exception for “other personal circumstances causing the spouses to live separately, not including an intent to obtain two homestead classifications....” The circumstances here were so unique that the Department agreed with the assessor that a second homestead was warranted. The Department has narrowly construed the “other personal circumstances” clause to be abuse or other extreme circumstances.

## Spousal Homestead

In another situation, Spouse 1 and Spouse 2 owned Home A and received a full regular homestead. Spouse 1 worked outside the home but became ill with a debilitating disease and could no longer work. Spouse 2 then became employed to support the family and obtain insurance benefits. Spouse 2 purchased Home B and applied for homestead benefits. Even if the place of employment is over 50 miles away, Spouse 1 was not employed so the exception for working apart did not fit. Spouse 1 could not move to Home B because the medical treatments for Spouse 1 were close to Home A. The Department again agreed with the assessor that these circumstances were sufficiently unique to allow a second homestead.

**Tip:** Under unique circumstances, the assessor may consider an additional exception but should contact the Department. Rarely will the circumstances merit this exception, but it can happen.

### Conclusion

Unless the specific exceptions are met, spouses living apart cannot receive homestead benefits on two homes. In fact, Home A and Home B can receive only a half regular homestead each based upon the occupying spouse.

### Minor Homesteads

As mentioned earlier in the Minor Relative Section earlier, Minnesota Statute 273.124 does not prohibit minors from qualifying for homestead. Ultimately, the occupant or owner confers homestead status on the property, but the property has homestead status, not the person. Therefore, if the minor meets all the requirements, the property can qualify for homestead.

Anyone under the age of 18 is considered a minor. Minors are allowed to own property in Minnesota.

In cases where a minor is listed on a homestead application, it is important to verify that the child is using the property as their primary place of residency before granting the homestead. In making this determination an applicant could be asked to provide:

- The location of the school that the child is attending
- A copy of the divorce decree that provides information on where the minor will primarily reside
- If deemed necessary, an affidavit from the parents or legal guardians to be filed attesting to the primary residency of the minor

In the case of minor homesteads, we would recommend more frequent verification as these situations may have frequent changes.

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## Homesteads with Multiple Owners

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If a minor applicant signs a homestead application themselves, nothing prohibits a county from accepting that signature for the purposes of processing the homestead application. However, we would advise that due diligence is exercised when reviewing applications with a minor's signature. The minor's social security number or individual taxpayer identification number should be reported on the application and collected by the county. If the minor applicant is too young to sign the form, or cannot sign for any reason, counties should accept a parent or legal guardian's signature with appropriate confirmation of signing authority.

### Homesteads with Multiple Owners

When a property has multiple owners, it can be difficult to determine whether a property qualifies for homestead and what percentage of the property may qualify. The property may qualify for a fractional homestead, due to some owners not meeting homestead requirements.

When evaluating a homestead application with multiple owners, the best way to determine their homestead eligibility is to evaluate **each owner separately**. If a property has three separate owners (not including spouses), the assessor should evaluate each homestead claim individually to determine the level of homestead warranted. In the case of agricultural homesteads, the assessor must also analyze the **ownership structure** within the deed.

**Agricultural homesteads** are fractionalized dependent on whether the property is owned as a tenancy in common or as a joint tenancy. It is important to note, that if the deed **does not specify the ownership structure** of a property, the assessor should assume the property is owned equally and fractionalize the homestead based on the number of owners. For additional information about fractional homestead calculation, see the [Auditor Treasurer Manual](#)

### Tenants in Common Ownership

When agricultural property is owned by tenants in common, each individual has an **explicit share of the property** as dictated by the deed, and the fractional homestead should be determined based on the deeded interest of each qualifying owner.

The only exception to fractionalizing property owned as tenants in common is in the case of a spousal ownership. Spouses are considered one entity in the state of Minnesota; therefore the ownership structure of the property would not be considered. For example, if a married couple owns property as tenants in common and one of them does not occupy the property, the assessor should grant a 50% owner occupied homestead, even if the spouse that occupies owns 90% of the property.

### Joint Tenancy Ownership

When the agricultural property is owned by joint tenants, then the fractional homestead is calculated based on the number of owners. Joint tenancy ownership means that each owner has an equal share of the property. The fractional homestead should be determined by based on the number of owners rather than ownership interest in the property.



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**Homesteads with Multiple Owners**

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**Note:** fractionalizing homestead based on ownership structure **only applies to agricultural homesteads**. Homestead for residential property that is owned by multiple owners would always be fractionalized according to the number of owners. Tenants in common and joint tenancy ownership does not play a factor when fractionalizing residential homesteads.

**Example 1:** Person 1, Person 2, and Person 3 own a house in town together and are unrelated. Persons 1 and 2 occupy the property, while Person 3 lives elsewhere. All three are Minnesota residents and do not claim another homestead.

Person 1 qualifies for homestead, because they own and occupy the property, and are a Minnesota resident. Person 2 also qualifies for homestead for the same reasons. Person 3 does not qualify for homestead because they do not occupy the property. Because two of the three owners qualify for homestead, the property should receive a 2/3 (66%) homestead.

**Example 2:** Person 1, Person 2, Person 3, and Person 4 all own an agricultural property, are all Minnesota residents, and the property is owned as a joint tenancy. Person 1 occupies the property and does not claim another agricultural homestead. Person 2 claims another agricultural homestead 100 miles away and does not occupy the property. Person 3 does not occupy the property themselves, but their child does. Neither they nor their family claim an agricultural homestead elsewhere in Minnesota. Person 4 is active in the day-to-day decisions of the farm but occupies a residential homestead elsewhere in Minnesota.

Looking through each owner individually, we can determine that Person 1 qualifies for agricultural homestead, as they own and occupy the property and are Minnesota residents. Person 2 does not qualify for homestead because they already claim an agricultural homestead. Person 3 qualifies for a relative homestead, as their qualifying relative (their child) occupies the property, and neither of them nor their family claim another agricultural homestead. Person 4 does not qualify for agricultural homestead, as they do not occupy the agricultural property. Therefore, the property would qualify for 25% owner-occupied agricultural homestead and 25% relative agricultural homestead, for a total of 50% homestead.

**Example 3:** Four individuals own an agricultural property, are all Minnesota residents, and the property is owned as tenants in common. The deeded ownership interest between the four owners is shown below. Like in example 2, Person 1 occupies the property and does not claim another agricultural homestead. Person 2 claims another agricultural homestead 100 miles away and does not occupy the property. Person 3 does not occupy the property themselves, but their child does. Neither they nor their family claim an agricultural homestead elsewhere in Minnesota. Person 4 is active in the day-to-day decisions of the farm but occupies a residential homestead elsewhere in Minnesota. Because this property is owned as tenants in common, the deeded ownership interest is taken into consideration. Therefore, because person 1 and person 3 qualify for homestead, the total homestead percentage is 60%.



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**Homesteads with Multiple Owners**

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Individual	Deeded ownership interest
Person 1	10%
Person 2	15%
Person 3	50%
Person 4	25%

Leased Buildings or Land

## Leased Buildings or Land

Occasionally, assessors will come across situations where homes are owned by one or more individuals but are located on land owned by someone else. Are these properties eligible for homestead? Answer: Yes.

Minnesota law provides the following:

*“For the purposes of class 1 [residential] determinations, homesteads include:*

*(a) buildings and appurtenances owned and used by the occupant as a permanent residence which are located upon land the title to which is vested in a person or entity other than the occupant;*

*(b) all buildings and appurtenances located upon land owned by the occupant and used for the purposes of a homestead together with the land upon which they are located, if all of the following criteria are met:*

- (1) the occupant is using the property as a permanent residence;*
- (2) the occupant is paying the property taxes and any special assessments levied against the property;*
- (3) the occupant has signed a lease which has an option to purchase the buildings and appurtenances;*
- (4) the term of the lease is at least five years; and*
- (5) the occupant has made a down payment of at least \$5,000 in cash if the property was purchased by means of a contract for deed or subject to a mortgage;*

*(c) all buildings and appurtenances and the land upon which they are located that are used for purposes of a homestead, if all of the following criteria are met:*

- (1) the land is owned by a utility, which maintains ownership of the land in order to facilitate compliance with the terms of its hydroelectric project license from the federal Energy Regulatory Commission;*
- (2) the land is leased for a term of 20 years or more;*
- (3) the occupant is using the property as a permanent residence; and*
- (4) the occupant is paying the property taxes and any special assessments levied against the property.*

*Any taxpayer meeting all the requirements of this paragraph must notify the county assessor, or the assessor who has the powers of the county assessor pursuant to section 273.063, in writing, as soon as possible after signing the lease agreement and occupying the buildings as a homestead.”*

Primary Statutory Reference: [273.124, subd. 7](#)

Leased Buildings or Land

**Townhomes, Condominiums, Cooperatives and Common Areas**

Upon meeting all other requirements and qualifications, a townhome or condominium unit, including a proportionate share of land and its interest in any common areas, shall be awarded the homestead benefits. The value of the unit's interest in the common area **should** be included in the total value of the unit along with the proportionate share of land. If common areas are valued or taxed separately, it can lead to issues involving:

1. the value of the common areas to a potential buyer separate from the condominium or townhome complex;
2. what happens in the event of non-payment of tax and the potential for tax forfeiture; and
3. the potential for property tax refund.

If the condominium, cooperative, or townhome property is owned by the occupant and used for the purposes of a homestead but is located upon land which is leased, that leased land must be valued and assessed as if it were homestead property within class 1 (residential) if all the following criteria are met:

1. the occupant is using the property as his permanent residence;
2. the occupant or the Cooperative Association is paying the ad valorem property taxes and any special assessments levied against the land and structure;
3. the occupant or the Cooperative Association has signed a land lease; and
4. the term of the land lease is at least 50 years, notwithstanding the fact that the amount of the rental payment may be renegotiated at shorter intervals.

Primary Statutory Reference: [273.124, subd. 2](#)

**Owner-Occupied Hotel/Motel and Cooperative Property**

Homestead benefits may be granted to owner-occupied motel property if the person who is residing at the motel is using that property as a homestead, is part-owner of the motel and is actively engaged in the operation of the motel business. The homestead is limited to the portion of the motel occupied by the person (no common area). Homestead treatment applies even if legal title to the property is in the name of a corporation or partnership and not in the name of the individual person residing at the motel.

A person meeting these requirements must notify the county assessor in writing to qualify for the homestead under this provision. The motel must meet the definition under Chapter 157 to qualify. Minnesota Statutes, [section 157.15, subdivision 7](#), defines a hotel or motel to be *"a building, structure, enclosure, or any part thereof used as, maintained as, advertised as, or held out to be a place where sleeping accommodations are furnished to the public and furnishing accommodations for periods of less than one week."*

Primary Statutory Reference: [273.124, subd. 17](#); [157.15, subd. 7](#)

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## Leased Buildings or Land

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### Buildings Owned by Non-Profit Corporations

When a building containing several dwelling units is owned by an entity organized under Chapter 317A (Non-Profit Corporations) and operating as a non-profit corporation, and the entity enters into membership agreements with persons under which those persons are entitled to life occupancy in a unit in the building, homestead classification must be given to each unit so occupied, and the entire building must be assessed the same as cooperatives and charitable organizations.

Primary Statutory Reference: [273.124, subd. 4](#)

### Continuing Care Facilities

When a building containing several dwelling units is owned by an entity which is regulated under the provisions of Chapter 80D (Continuing Care Facilities) and operating as a continuing care facility, and the entity enters into residency agreements with persons who occupy a unit in the building under which those residents are entitled to occupancy in the building after personal assets are exhausted and regardless of ability to pay the monthly maintenance fee, homestead classification shall be given to each unit so occupied and the entire building shall be assessed the same as cooperatives and charitable organizations. Continuing care facilities may not present ownership structures or definition of units in the same manner as typical cooperatives or CIC's, therefore, the assessor should work with the underlying property owner to establish unit description to apply the homestead appropriately.

Primary Statutory Reference: [273.124, subd. 5](#)

### Cooperatives and Charitable Corporations

- A. When a property is owned by a corporation or association that is organized under [Chapter 308A](#) (Cooperatives), and each person who owns a share or shares in the corporation or association is entitled to occupy a building on the property or a unit within a building on the property, the corporation or association may claim homestead treatment for each dwelling or on each unit occupied by a shareholder. Each building or unit must have its own legal description or number.

The net tax capacity **of each building or unit** that qualifies for a homestead cannot include more than  $\frac{1}{2}$  acre of land (if platted) or 80 acres of land (if unplatted).

The net tax capacity **of the property** is the sum of the net tax capacities of each of the units comprising the property, including the net tax capacity of each unit's proportionate share of the land and any common areas.

To qualify for homestead treatment, the corporation or association must be wholly owned by persons having a right to occupy a building or unit owned by the corporation or association. A charitable corporation that is organized under the laws of Minnesota and not otherwise exempt, with no outstanding stock, qualifies for homestead treatment with

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**Leased Buildings or Land**

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respect to member residents of the buildings or dwelling units who have purchased and hold residential participation warrants entitling them to occupy the units.

- B. To the extent provided in paragraph A above, a cooperative or corporation organized under [Chapter 308A](#) or [Chapter 308B](#) (Cooperative Association) may obtain individual valuation and tax statements for each residential homestead, residential non-homestead, or each seasonal residential recreational unit that is not used for commercial purposes. The appropriate class rates shall be applicable as if each unit were a separate tax parcel. However, this is provided the tax parcel which exists at the time the cooperative or corporation makes application under this subdivision shall be a single parcel for purposes of property taxes or the enforcement and collection thereof, other than as provided in paragraph A or B.
- C. A member of a corporation or association may initially obtain the separate assessment, valuation and tax statements as provided in paragraph B by applying to the assessor by June 30 of the assessment year.
- D. When units within a building no longer qualify under paragraph A or B, the current owner must notify the assessor within 30 days. Failure to do so will result in the loss of benefits under paragraph A or B for taxes payable in the year the failure is discovered.

Primary Statutory Reference: [273.124, subd. 3](#)

### **Leasehold Cooperatives**

Ordinarily, someone must have an ownership interest in a property to receive a homestead. However, special legislation allows homesteads for those meeting certain conditions below. To qualify for homestead status as a leasehold cooperative, such properties must be owned by a non-profit corporation subject to the provisions of [Chapter 317A](#) (Non-Profit Corporations) and qualifying under [section 501\(c\)\(3\)](#) or [501\(c\)\(4\)](#) of the Internal Revenue Code, or by a limited partnership which corporation or partnership operates a property in conjunction with a cooperative association and receives public financing. In these cases, the cooperative association, on behalf of the members, may claim homestead for each dwelling unit occupied by a member of the cooperative. The cooperative association must provide the assessor with the Social Security numbers or individual taxpayer identification numbers of those members. In addition, the following conditions must be met:

1. The cooperative association must be organized under [Chapter 308A](#), and all voting members of the board of directors must be resident tenants of the cooperative and must be elected by the resident tenants of the cooperative.
2. The cooperative association must have a lease for occupancy of the property for a term of at least 20 years, which permits the cooperative association, while not in default of

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- the lease, to participate materially in the management of the property, including material participation in establishing budgets, setting rent levels, and hiring and supervising a management agent.
3. To the extent permitted under state and federal law, the cooperative association must have a right under a written agreement with the owner to purchase the property if the owner proposes to sell it. If the cooperative association does not purchase the property when it is offered for sale, the owner may not subsequently sell the property to another purchaser at a price lower than the price at which it was offered for sale to the cooperative association unless the cooperative association approves the sale.
  4. A minimum of 40% of the cooperative association's members must have incomes at or less than 60% of the area median gross income as determined by the United States Secretary of Housing and Urban Development under [section 142\(d\)\(2\)\(B\)](#) of the Internal Revenue Code. For purposes of this clause, "member income" means the income of a member existing at the time the member acquires his or her cooperative membership.
  5. If a limited partnership owns the property, it must include, as the managing general partner, a non-profit organization operating under the provisions of [Chapter 317A](#) and qualifying under [section 501\(c\)\(3\)](#) or [501\(c\)\(4\)](#) of the Internal Revenue Code. The limited partnership agreement must provide that the managing general partner has sufficient powers so that it materially participates in the management and control of the limited partnership.
  6. Prior to becoming a member of a leasehold cooperative described in this subdivision, a person must receive notice that describes the leasehold cooperative property in plain language, including the effects of classification under this subdivision on rents, property taxes, and tax credits or refunds, and operating expenses. It must also state that copies of the articles of incorporation and bylaws of the cooperative association, the lease between the owner and the cooperative association, a sample sublease between the cooperative association and a tenant, and, if the owner is a partnership, a copy of the limited partnership agreement, can be obtained upon written request at no charge from the owner. The owner must provide the requested information within 7 days of receiving the request.
  7. If a dwelling unit of a building was occupied on the 60<sup>th</sup> day prior to the date on which the unit became leasehold cooperative property, then the notice described in paragraph 6 must have been sent by first class mail to the occupant of the unit at least 60 days prior to the date on which the unit became leasehold cooperative property. For purposes of the notice under this paragraph, the copies of the documents referred to in paragraph 6 may be in proposed version, provided that any subsequent material alteration of those documents made after the occupant has requested them shall be disclosed. Copies of the articles of incorporation and certificate of limited partnership

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- shall be filed with the secretary of state after the expiration of the 60-day period unless the change to leasehold cooperative does not proceed.
8. The county attorney of the county in which the property is located must certify to the assessor that the property meets the requirements of this subdivision.
  9. The public financing received must be from at least one of the following sources:
    - a. Tax increment financing proceeds used for the acquisition or rehabilitation of the building or interest rate write-downs relating to the acquisition of the building.
    - b. Government-issued bonds exempt from taxes under section 103 of the Internal Revenue Code, the proceeds of which are used for the acquisition or rehabilitation of the building.
    - c. Programs under section 221(d)(3), 202, or 236, of [Title II of the National Housing Act](#).
    - d. Rental housing program funds under Section 8 of the United States Housing Act of 1937 or the market rate family graduated payment mortgage program funds administered by MHFA that are used for the acquisition or rehabilitation of the building.
    - e. Low-income housing credit under [section 42](#) of the Internal Revenue Code.
    - f. Public financing provided by a local government used for the acquisition or rehabilitation of the building, including grants or loans from federal community development block grants, HOME block grants, or residential rental bonds issued under [Chapter 474A](#).
    - g. Other rental housing program funds provided by the MHFA for the acquisition or rehabilitation of the building.
  10. At the time of the initial request for homestead classification or of any transfer of ownership of the property, the governing body of the municipality where the property is located must hold a public hearing and make the following findings:
    - a. That the granting of the homestead treatment of the apartment's units will facilitate safe, clean, affordable housing for the cooperative members that would otherwise not be available absent the homestead classification.
    - b. That the owner has presented information satisfactory to the governing body showing that the savings garnered from the homestead classification on the units will be used to reduce tenant's rents or provide a level of furnishing or maintenance not possible without the homestead classification.

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- c. That all requirements of paragraphs 2, 4, and 9 have been met.

Homestead treatment must be afforded to units occupied by members of the cooperative association, and the units must be assessed as provided in subdivision 3 provided that any unit not so occupied shall be classified and assessed pursuant to the appropriate class. No more than three acres of land may, for assessment purposes, be included with each dwelling unit that qualifies for homestead treatment under this subdivision.

When dwelling units no longer qualify under this subdivision, the current owner must notify the assessor within 60 days. Failure to notify the assessor will result in the loss of benefits under this subdivision for taxes payable in the year that the failure is discovered. For these purposes, "benefits under this subdivision" means the difference in the net tax capacity of the units which no longer qualify as computed under this subdivision and as computed under the otherwise applicable law, multiplied by the local tax rate applicable to the building for taxes payable that year. It will also result in a penalty equal to 100% of that amount.

**Preliminary Approval of Leasehold Cooperatives**

Preliminary approval for classification as a leasehold cooperative may be granted to property when a developer proposes to construct one or more residential dwellings or buildings using funds provided by the Minnesota Housing Finance Agency if all the following conditions are met.

1. The developer must present an affidavit to the county attorney and to the governing body of the municipality that includes a statement of the developer's intention to comply with all requirements in subdivision 6 and a detailed description of the plan for doing so.
2. The commissioner of the MHFA must provide the county attorney and governing body with a description of the financing and related terms the commissioner proposes to provide with respect to the project, as well as an objective assessment of the likelihood that the project will comply with the requirements of subdivision 6.
3. The county attorney must review the materials provided above and may require the developer or the MHFA to provide additional information. If the county attorney determines that it is likely that the project will meet the requirements of this subdivision, the county attorney may provide preliminary approval to treat the property as a leasehold cooperative.
4. The governing body shall conduct a public hearing as provided in subdivision 6, paragraph 10, and make its preliminary findings based on the information provided by the developer and MHFA.



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**Leased Buildings or Land**

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Upon completion of the project and creation of the leasehold cooperative, actual compliance with the requirements of this subdivision must be demonstrated and certified by the county attorney. A second hearing by the governing body is not required.

If the county attorney finds that the homestead treatment granted pursuant to a preliminary approval under this subdivision must be revoked because the completed project failed to meet the requirements of the subdivision, the benefits of the treatment shall be recaptured. The county assessor shall determine the amount by which the tax imposed on the property was reduced because it was treated as a leasehold cooperative. The developer will be charged an amount equal to the tax reduction received, or if the county attorney determines that the failure to meet the requirements was due to the developer's intentional disregard of the requirements, 150% of the tax reduction received.

Primary Statutory Reference: [273.124, subd. 6a](#)

**Manufactured Home Park Cooperatives**

Manufactured home park cooperatives allow lessees to create an association that buys the park itself, manages the park and guarantees every member of the association a site upon which to locate a manufactured home. There is at least one, maybe more, nonprofit group that is assisting the lessees to organize themselves into cooperative associations and financing the purchase of the park. Currently, we are aware of several manufactured home park cooperatives in Minnesota.

Formation of a manufactured home park cooperative can have property tax implications. Ordinarily, manufactured home parks are classified as class 4c(5)(i) property and taxed at 1.25%. However, all a manufactured home park cooperative's estimated market value may qualify for a reduced class rate of .75% if over 50% of the pads are occupied by shareholders of the cooperation or association that owns the manufactured home park. If 50% or fewer of the pads are occupied by shareholders, the park receives a class rate of 1.00%.

When a manufactured home park is owned by a corporation or association organized under [Chapter 308A](#) (Cooperatives), and each person who owns a share or shares in the corporation or association is entitled to occupy a lot within the park, the corporation or association may claim homestead treatment for the park. "Homestead treatment" means the class rate provided for class 4c property under [section 273.13, subdivision 25, paragraph \(d\), clause \(5\), item \(ii\)](#). This refers to the reduced class rate provided if more than 50% of the pads are occupied by shareholders of the corporation. The homestead market value credit under [section 273.1384](#) does not apply.

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**Leased Buildings or Land**

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The park shall be entitled to homestead treatment if all of the following criteria are met:

1. Each lot must be designated by legal description or number, and each lot is limited to not more than  $\frac{1}{2}$  acre of land
2. The occupant or the cooperative corporation or association is paying property taxes and any special assessments levied against the land and structure either directly or indirectly through dues to the corporation or association; and
3. The corporation or association organized under [Chapter 308A](#) is wholly owned by persons having a right to occupy a lot owned by the corporation or association.

The charitable corporation, organized under the laws of Minnesota with no outstanding stock and granted a ruling by the IRS for [501\(c\)\(3\)](#) tax-exempt status, qualifies for homestead treatment with respect to a manufactured home park if its members hold residential participation warrants entitling them to occupy a lot in the manufactured home park.

A manufactured home park cooperative is valued the same as any other manufactured home park. To determine if the park cooperative is eligible for homestead treatment, the assessor must work with the representatives of the cooperative association to see how many lots are on the plan, how the cooperative association has laid out the lots, and how many will be occupied by shareholders.

Primary Statutory Reference: [273.124, subd. 3a](#); [273.13, subd. 25](#)

Agricultural Homestead

### Agricultural Homestead

Agricultural homestead follows many of the same general rules as residential homestead such as occupancy, ownership, and use, however there are several notable differences between the two. The largest difference is that a portion of the property must contain agricultural land. Some other differences are the ability for property owned by certain farming entities (e.g. family farm corporation, LLC operating a family farm, etc.) to receive homestead, and the ability for unoccupied agricultural properties to receive homestead, which is referenced as special agricultural homestead. This section will provide information on the different types of occupied agricultural homestead and additional information related to occupied agricultural homesteads. Information on unoccupied agricultural homesteads will be addressed in the Special Agricultural Homesteads section of this module.

In addition to the information contained in this section, the department has created three flowcharts to assist in establishing agricultural homesteads. These are located at the end of this module and are designed to be used to evaluate whether an agricultural property may qualify for agricultural homestead. Please note that not all requirements are listed on the flowcharts and assessors are responsible for the verification process prior to granting a homestead.

#### Possible Agricultural Homestead Scenarios

Please note that these scenarios are based on potential scenarios where the agricultural property is occupied. Homestead scenarios for agricultural property that is unoccupied is discussed later in this module under "Special Agricultural Homesteads"

1. **Property that is owned, occupied, and farmed by a natural person:** Typically, the property is owned in fee simple ownership. A Property Tax Refund (PTR) is available on the house, garage and first acre (HGA). The homestead is granted in the name of the owner/occupant/farmer. The farmer is irrelevant in this case.

Primary Statutory Reference: [273.124, subd. 1, para. \(a\)](#)

2. **Property that is owned and occupied by a natural person but farmed by another person:** In this situation, the land is often rented to and farmed by a neighbor or family member. This type of farm is typically owned in fee simple ownership. A PTR is available on the house, garage, and first acre. As a general rule, if the owner is a Minnesota resident and occupies the property, it doesn't matter who actually farms the property, the property is eligible for homestead. The homestead is granted in the name of the owner/occupant. The farmer is irrelevant in this case.

Primary Statutory Reference: [273.124, subd. 1, para. \(a\)](#)

3. **Life estates:** A person deeds the property to someone else (usually a child/children) but retains the right to occupy the property for the remainder of his/her life. In this case,

### Agricultural Homestead

the property may be homesteaded in the name of the person retaining the life estate or in the name of a qualifying relative of the life estate holder who occupies the property. The life estate may be for the house, garage, and first acre or on the entire farm, depending on the wording of the life estate documents. It is up to the assessor to verify this information before granting the homestead. PTR is available only on the HGA. The homestead is in the name of the life estate holder who occupies the property. The farmer is irrelevant in this case.

Primary Statutory Reference: [273.124, subd. 1, para. \(a\)](#)

4. **Vested remainder interests:** This occurs when there is a life estate on an agricultural property, and the remainder interest follows the life estate. For example, if parents sell their property to their son, but retain a life estate (the right to occupy until their death) on the entire farm, the child's interest is called a vested remainder interest in that they do not have the right to occupy the property until their parents pass away. The child could be granted a vested remainder homestead in this case if the child actively farms the property. This type of homestead happens infrequently since the relative homestead provisions came into effect. The homestead is in the name of the holder of the vested remainder interest.

Primary Statutory Reference: [273.124, subd. 14, para. \(d\)](#)

5. **Agricultural relative homestead:** Property that is owned by one person, occupied by a qualifying relative, and farmed.

The qualifying relatives for agricultural property differ based on whether the property is occupied (agricultural homestead) or unoccupied (special agricultural homestead). For occupied agricultural homestead, qualifying relatives include parents, siblings, step-parents, children, step-children, grandparents, grandchildren, aunts, uncles, nieces, and nephews. For special agricultural homesteads, qualifying relatives include grandchildren, children, siblings, or parents of the owner or of the spouse of the owner. These relationships can be by blood or by marriage.

If the property is occupied by a qualifying relative for agricultural property, the entire property can receive an agricultural relative homestead, regardless of who farms the property.

You may grant agricultural relative homesteads in cases of fractional ownership. For example, if ownership of the farm was split between six children and the farm was occupied by the parents, the property could qualify for an agricultural relative homestead. It is incumbent upon the assessor to verify that the applicant meets all of the qualifications. These include:

### Agricultural Homestead

- both the owner(s) and qualifying relative(s) must be Minnesota residents;
- neither the owner (or owners in cases of fractional ownership) nor the qualifying relative(s) may claim another ag homestead in Minnesota; and
- there may only be **one** Ag relative homestead per family.

Neither the owner, nor the qualifying relative is eligible for a Property Tax Refund. The homestead is granted in the name of the qualifying relative who occupies the property.

It should also be noted that with the exception of trusts, entity-owned property **cannot** receive agricultural relative homestead. Corporations, partnerships, limited liability companies, etc. are legal entities in and of themselves. They are not people, so they cannot have relatives. If a property is occupied by a qualifying relative of the grantor of **trust-held** property, the relative can receive an agricultural relative homestead if they meet all the other requirements.

Primary Statutory Reference: [273.124, subd. 1, para. \(d\)](#)

6. **Residential relative homestead on HGA:** If a farm is occupied by a relative that does not qualify for an agricultural relative homestead but does qualify for a residential relative homestead (i.e. a niece or nephew), OR if the farm is **not** owned by a Minnesota resident, it may be appropriate to grant a residential relative homestead on the house, garage on immediately surrounding one acre (HGA). The remaining agricultural land would be either non-homestead or it may qualify for a different type of homestead. Neither the owner nor the qualifying relative is eligible for a Property Tax Refund. The homestead is granted in the name of the qualifying relative who occupies the property.

Primary Statutory Reference: [273.124, subd. 1, para. \(c\)](#)

7. **Trust-held property:** Agricultural property that is held under a trust may be homesteaded if it is occupied by the grantor or their spouse (who must be Minnesota residents) or the surviving spouse of the grantor (who also must be a Minnesota resident). This would be a regular agricultural homestead. It may also qualify if the property is occupied by a qualifying relative or surviving qualifying relative of the grantor. Again, if the property is occupied by a qualifying relative for an agricultural homestead, it should be given an agricultural relative homestead. If the property is occupied by a qualifying relative that is a qualifying relative for residential property but not for agricultural property, the relative should be given a residential relative homestead on the HGA. The property may only receive PTR if it is occupied by the grantor or the grantor's spouse (not qualifying relatives) and it is only available on the HGA. The homestead is granted in the name of the occupant – the grantor, grantor's surviving spouse, or qualifying relative that occupies the property. Trust-held property is discussed further in the *Special Provisions* section.

Agricultural Homestead

**Farms Owned by Individuals**

A classic agricultural homestead is applied when a property owner occupies the agricultural property as their primary place of residency. The requirements for an occupied agricultural homestead are minimal which makes the administration of agricultural homestead a simple process.

Agricultural homestead can get more complicated when the property is transferred to different ownership types like an entity or trust.

**Farms Owned by Entities**

Owners may transfer ownership of their property to an entity for estate planning purposes which can affect the homestead status of a property. When an owner transfers property to an entity property taxes may not be a concern - until they lose homestead. Since ownership is very important for homestead purposes it’s important for owners and assessors to understand the requirements for entity owned agricultural land. It is also important for assessors to have a basic understanding of the different types of entities. Please review the [glossary](#) for additional information on the types of entities.

Farming entities are regulated under Minnesota Statutes [section 500.24](#) to own and farmland under that section in order to qualify for homestead. Entities including corporations, limited partnerships, limited liability companies, and trusts (except revocable trusts) must register with the Minnesota Department of Agriculture (MDA) by filing the Minnesota Corporate Farm Application prior to purchasing or engaging in farming of agricultural land. A copy of the application may be on their website: <http://www.mda.state.mn.us/>

The following types of entities are required to register with the MDA:

**Entities subject to law**

Corporations (S-corps, C-corps, etc.)  
 Limited Liability Companies (LLCs)  
 Limited Partnerships (LPs)  
 Limited Liability Limited Partnerships (LLLPs)  
 Trusts (except revocable trusts)

**Entities NOT subject to law**

Individual owners (sole proprietorships)  
 General Partnerships  
 Limited Liability Partnerships (LLPs)  
 Revocable Trusts

Once an entity that is subject to the law meets the requirements of [section 500.24](#), that entity is issued a letter of approval and is required to annually verify eligibility information with the MDA. The entity’s name will also appear on MDA’s database of approved entities. The database can be searched at: [http://www2.mda.state.mn.us/webapp/lis/corpfarm\\_default.jsp](http://www2.mda.state.mn.us/webapp/lis/corpfarm_default.jsp).

In other words, any entity **other than individuals, general partnerships, LLPs, and revocable trusts**, must be listed on the website to be eligible for agricultural homestead. If the entity is subject to the law and they are not listed on the website, they must contact MDA to get registered before making application for homestead.

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### Agricultural Homestead

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Once an entity meets the requirements of [500.24](#), or if the entity is not required to meet the requirements as in the case of the entities listed in the right hand column above (individuals, general partnerships, LLPs, and revocable trusts), the requirements of [section 273.124](#) must still be met for a property to be granted an agricultural homestead.

#### Entity Owned and Occupied

To qualify for an agricultural homestead, when an agricultural property is occupied by a qualifying member of an entity requires that the occupant is **actively engaged in farming**. This means that the occupant must participate on the farm on a regular and substantial basis. The homestead is granted in the name of the qualified person who is occupying the property, which means that the occupant and their spouse must not claim another agricultural homestead in Minnesota. If the property is classified as agricultural, there is no additional land size requirement for occupied agricultural homestead.

During the 2019 legislative session, statute was amended so that land owned by one entity could be operated by a separate entity and still potentially qualify for agricultural homestead. Under the new law, a different entity may operate the property if:

1. the **occupant** is a member of **both** the operating entity and the owning entity; and
2. more than half of the shareholders, members, or partners of **each** entity must be qualifying relatives.

All other requirements for entity owned and occupied agricultural homestead must still be met. The homestead would be granted to the **owning** entity on behalf of the occupant.

Primary Statutory Reference: [273.124, subd. 8](#); [500.24](#)

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## Agricultural Homestead

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### Farms Owned by Trusts

Agricultural property owned by a trust is eligible to receive an agricultural homestead. The grantor of the trust is treated as “the owner” for homestead purposes. The “grantor” is defined as the person creating or establishing a trust.

**The “type” of trust that is created is not of primary concern for homestead purposes.** The property may be a “testamentary, *inter vivos*, revocable, or irrevocable trust” and no matter what type of trust, the grantor - or individuals of specific relation to the grantor - may be eligible for homestead. The homestead is granted in the name of the qualifying occupant – the grantor, grantor’s surviving spouse, or qualifying relative that occupies the property. While grantors are treated as individual owners for trust property purposes, you must keep in mind that trusts are not individuals- they are entities.

Real property owned by a trust is eligible for homestead if:

1. the grantor/surviving spouse of the grantor of the trust occupies and uses the property as a homestead (*this is the same as an owner-occupied homestead*);
2. a qualifying relative/qualifying surviving relative of the grantor occupies and uses the property as a homestead (*this is the same as a relative homestead*);
3. a family farm corporation, joint farm venture, limited liability company or partnership that operates the trust property and the grantor/grantor’s surviving spouse/qualifying relative is a member of the operating entity (*these are special agriculture homestead situations*);

Agricultural property owned by a trust is eligible for an agricultural homestead if the grantor or surviving spouse of the grantor of the trust occupies and uses the property as a homestead. [See M.S. [273.124, subd. 21, paragraph \(a\)](#).] This is treated in the [same manner](#) as an owner-occupied homestead.

If the grantor has passed away but the trust has not dissolved, the surviving spouse of the grantor may occupy the property and continue to receive homestead treatment. Once the trust is dissolved, ownership changes and homestead determinations are based on the ownership and occupancy facts at that time.

**Example: A property was owned by a spousal trust. The wife was the sole grantor of the trust. She passed away, and her husband continues to reside on the farm. The trust is still active and remains as the “owner” of the property. The husband has since remarried. Is he still eligible for homestead as the surviving spouse of the grantor?**

Yes. Regardless of having remarried, he is still considered the surviving spouse of the grantor of the trust for homestead purposes. Per Minnesota Statutes, section 273.124, subdivision 21, the property may be homestead.



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## Agricultural Homestead

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### Relative trust-held homesteads

Trust-held property can receive relative agricultural homestead if occupied by a qualifying relative of the *grantor* (creator) of the trust. If a relative *or surviving relative* of the grantor occupies and uses the property as a homestead, the property may be eligible for homestead treatment. See M.S. [273.124, subdivision 1, paragraphs c and d](#) for lists of qualifying relatives.

### Linking Parcels

Linking is the process of extending the benefits of either an agricultural or special agricultural homestead to other non-contiguous agricultural parcels. Before linking homestead to other agricultural parcels you must **establish** the homestead on a single parcel.

In other words, you must be sure that the established parcel qualifies for agricultural/special agricultural homestead before you can link to other agricultural parcels. This established parcel is called the **base parcel** if the homestead is occupied, or the **established main parcel** if the homestead is unoccupied.

Once you have established homestead on a parcel, then you can review the additional parcels for linking. Linking non-contiguous properties for agricultural homestead purposes may only be done if those properties qualify for the agricultural classification under [section 273.13](#). Just because a base parcel qualifies for an agricultural homestead does not mean that the homestead may be linked to all property within 4 townships owned by that same person or entity.

First, the non-contiguous parcel(s) must qualify for the agricultural classification, meaning at least 10 contiguous acres must be used to produce an agricultural product for sale, then the assessor can determine whether the property meets the qualifications for linking the homestead.

- For example, Fred and Wilma own and occupy a 160-acre farm where they raise dairy cattle. In addition, they own a 40-acre parcel of wooded property approximately 6 miles from their home, which the assessor has classified as 2b rural vacant land. Can the wooded parcel be linked to the base parcel's homestead? **Answer: No.** To be linked for homestead purposes, the property must first be classified as 2a agricultural property. Since the property is wooded and classified as 2b rural vacant land and there is no agricultural production taking place on the property, the property cannot be linked to the base parcel for homestead purposes.

When the assessor verifies that the parcel qualifies for the agricultural classification, then the first step for linking is to verify ownership of the non-contiguous parcels. It is NOT appropriate to link properties **where the ownership differs**. This is the basic principle behind linking agricultural properties.

- For example, Entity D could not link the agricultural homestead to Entity F's agricultural parcels, because the ownership of the agricultural parcels are different, even if the members of the two entities are the same.

## Agricultural Homestead

There are some **exceptions to the ownership** rules for linking, those exceptions are explained below:

**Individual Ownership:** a base parcel which is owned and occupied by an individual may be linked to a parcel of property that the owner owns with **other** individuals.

- For example, Ole and Lena own and occupy their own farm. Ole and Lena also own three parcels jointly with Ole's brother Sven and Sven's wife Uma. In this case, Ole and Lena may extend their agricultural homestead to the 50% ownership of the parcels they own with Sven and Uma.

For married couples, properties that are solely held in the name of one spouse may be linked to parcels that are solely held by the other spouse, and/or parcels that are titled in both names.

- For example, Ole owns parcel 1, Lena owns parcels 2 & 3, Ole & Lena own parcel 4. Ole and Lena occupy parcel 4, this is the base parcel. They can link the homestead from parcel 4 to the other three parcels that they own individually.

**Trust Ownership:** there are two exceptions for trust owned property and linking agricultural homestead. The first exception applies to an individually-owned parcel that may be linked to a trust-held parcel if the owners of the individually-owned parcel are the grantor(s) of the trust or they are the spouse/surviving spouse of the grantor(s) of the trust.

- For example, Ole and Lena own a farm, Lena occupies the farm, and Ole has passed away. The OL Family Revocable Trust, which Ole and Lena are the grantors, owns four additional agricultural parcels. The agricultural homestead from the base parcel may be linked to the other four, trust-held parcels since Lena is a grantor of the trust and the surviving spouse of Ole, the other grantor of the trust.

The second exception applies to separate parcels that are owned by different trusts, these trusts may be linked if the grantors of **each** trust are any combination of an individual, that individuals spouse, or that individuals surviving spouse.

- For example, Ole Trust owns parcel A and Lena Trust owns parcel B. Ole is the grantor of Ole Trust and Lena is the grantor of Lena Trust. Ole and Lena occupy parcel A. Since Ole is Lena's spouse, he can link the agricultural homestead from parcel A to parcel B which is owned by Lena Trust.

### Agricultural Homestead Value-Tier Linking

[Minnesota Statutes section 273.124, subdivision 8](#) allows **non-homestead agricultural land** to use remaining first-tier value under the following parameters:

- The **non-homestead agricultural land must be owned** by a family farm corporation, joint farm venture, limited liability company, or partnership

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### Agricultural Homestead

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- The non-homestead land is located within four cities or townships, or combination thereof from the agricultural land that is owned and occupied as a homestead by a shareholder, member, or partner of owning entity
- the owner, or someone acting on the owner's behalf must notify the county assessor by July 1 that the property may be eligible under this paragraph for the current assessment year, for taxes payable in the following year

#### What value gets linked?

Qualifying property is entitled to receive the first-tier homestead class rate on any remaining market value in the first homestead class tier that is in excess of the market value of the shareholder's, member's, or partner's class 2a agricultural homestead property.

This means that agricultural property owned by a qualifying entity may be “linked” to an individual’s agricultural homestead up to the amount remaining on the first tier of market value that is unused from the individual’s homestead land. This does not mean that they qualify for the other benefits of homestead. The linked parcel should not receive agricultural homestead market value credit, nor should the fact that it is linked qualify the property for Green Acres benefits. Any market value that exceeds the first tier continues to receive the non-homestead class rate. This provision is not limited to the ownership percentage the individual has in the entity-held land. Owners must notify the county assessor by **July 1** that they have property that may qualify for value linkage for taxes payable the next year.

#### Example:

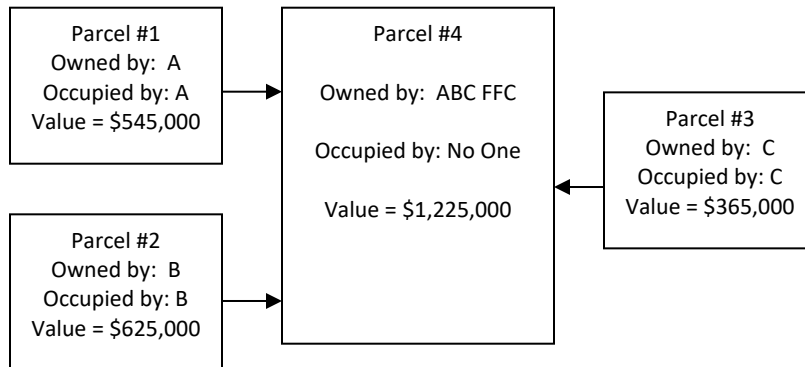
Ole and Lena own, occupy, and homestead their own farm. In addition, they own and farm additional farmland with Sven and Uma, which is owned under the name Norsk Family Farms, Inc. The family farm corporation has been approved to own and farmland under [section 500.24](#). Ole and Lena can extend their first-tier homestead class rate to the corporately held land up to the first-tier value limit.

We urge all County Assessors Offices to develop a good record-keeping system and monitor qualifying properties on an ongoing basis for changes. In future years, the first tier of market value may either expand or contract, property ownership may change, or owners may apply on new or different properties.

Agricultural Homestead

**Ag Homestead Value Tier Linkage Example:**

Farmers A, B, and C each own and occupy their own farms. Together they also own land and farmland as ABC Family Farm Corporation which is within 4 cities or townships of all individually owned parcels. ABC Family Farm Corp. is authorized to own and farmland under [section 500.24](#).



1. Start with each individually-owned Ag homestead parcel.
2. Link all the individually-owned parcels to the chain first.
3. Calculate the total value of these parcels.
4. If the amount is less than the first-tier value maximum (this amount can vary annually, so we will use \$2.14 million for this example), then additional entity-owned parcels may receive the remaining value.

Individual Owner	Individually-Owned Homestead Parcel(s) Values	+	Remaining First-tier Homestead Value (to carry over to entity-owned property)	=	Maximum First Tier Value Amount (for current assmt)
Owner A (Parcel 1)	\$545,000		\$1,595,000		\$2,140,000
Owner B (Parcel 2)	\$625,000		\$1,515,000		\$2,140,000
Owner C (Parcel 3)*	\$365,000		\$1,775,000		\$2,140,000
<b>Total Value Available to Carry Over to Entity-Owned Property (Parcel #4)</b>			<b>\$4,885,000</b>		

\* Since Parcel 4 is only valued at \$1,225,000 and there is \$4,885,000 of total value available to carry over, the entire parcel is at the ag homestead class rate. The owners have additional value that **could** potentially be carried over to another qualifying entity-owned property. If the total value available to carry over is less than the value of the entity-owned parcel, the remaining value should be classified as agricultural non-homestead.

Agricultural Homestead

**1. Does this mean the property receives all the other benefits of homestead such as Green Acres benefits?**

**Answer:** No. This “linkage” represents a linkage for *classification rate* purposes only. It does not refer to the more commonly understood “linkages” that convey the other homestead benefits such as agricultural homestead market value credits or allow the property to qualify for any subsequent Green Acres benefits. It does not confer any other homestead benefits. Therefore, in programming terms, the new law does NOT address multi-parcel homestead linkages. Instead, it has effectively created a new classification that is tied to the first-tier homestead value limit. Because programming for this situation may be impossible or ill-advised, it may best be addressed via manual maintenance, at least until the provision has matured in practice.

**2. Does the agricultural homestead value linkage extend to agricultural relative homesteads or to special agricultural homestead situations?**

**Answer:** **No.** Minnesota Statutes, [section 273.124, subdivision 8, paragraph \(d\)](#) specifies “*Nonhomestead agricultural property that is owned by a family farm corporation, joint farm venture, limited liability company, or partnership; and located not farther than four townships or cities, or combination thereof from agricultural land that is owned, and used for the purposes of a homestead by an individual [emphasis added] who is a shareholder, member, or partner of the corporation, venture, company, or partnership...*”

Agricultural relative homesteads are granted in the name of the relative who is occupying the property, they are not granted in the name of the owner of the property. In addition, since special agricultural homesteads are based on farming activity during the current crop year, they are not finalized until the December 31 application deadline, which is after the deadline by which taxpayers must notify assessors that they qualify under this provision.

**3. If the base parcel is a special agricultural actively farming homestead, is entity-owned land eligible for the first-tier rate up to the maximum?**

**Answer:** No. The “base” parcel for this value linking provision must be an individually-owned, owner-occupied property. The base parcel may not be owned by a family farm corporation or other entity.

**4. If the base parcel ownership is a trust, would it qualify for the agricultural value linking on entity-owned parcels?**

**Answer:** It depends. In the case of a property owned by a trust, if the grantor of the trust occupies the property as his/her homestead, it is treated as an owner-

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**Agricultural Homestead**

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occupied homestead. In only this case (grantor occupying and homesteading the agricultural property) would any additional entity-owned land be eligible for value linkage. A base parcel would not qualify in any other trust situation.

- 5. In the example, what if property owner A had a value of \$1,000,000, property owner B had a value of \$700,000 and property owner C had a value of \$365,000. Will we need to break out multiple records manually each year so that they reach the threshold – so property owner A could get another \$140,000, B could have \$440,000 and C could have \$775,000?**

**Answer:** Yes. The first-tier homestead may change each year. The value allowed under the first tier may go up or down each assessment year, so each linkage would need to be recalculated on an annual basis as long as there is value to link to on the entity-owned parcel. The property owner must notify you of potentially affected parcels.

- 6. In the past, we have always looked at the percentage of ownership and split accordingly. This will be difficult to administer if ownership isn't treated equally or to the percentage of interest in that parcel or LLC.**

**Answer:** When granting homesteads to entity-owned properties, there is no need to base it on the percentage of ownership in the entity. In fact, there is no basis in law for you to do so. Rather the law only requires that the person be a “qualified person” (a shareholder, member, or partner) in an authorized entity. The percentage of ownership generally only factors into the equation when a sole proprietor owns the property.

Agricultural Homestead

**Past Agricultural Homestead Scenarios**

There are several situations where a property may currently receive a homestead under a provision that no longer applies. No new homesteads should be granted under the following provisions, but properties who are currently receiving homestead may continue to do so.

1. **Less than 10 acres:** Property of less than 10 acres that was homesteaded by its owner **for the 1998 assessment** is grandfathered in as an agricultural homestead if:
  - a. The parcel on which the house is located is contiguous on at least two sides to either agricultural land, land owned or administered by the U.S. Fish and Wildlife Service, or land administered by the DNR on which payments in lieu of tax are made under [sections 477A.11 to 477A.14](#); AND
  - b. The owner also owns a noncontiguous parcel of agricultural land that is at least 20 acres in size; AND
  - c. The noncontiguous land is located not farther than four townships, cities or a combination thereof from the homestead; AND
  - d. The agricultural use value of the noncontiguous land and farm buildings is equal to at least 50% of the market value of the house, garage and one acre of land.

This homestead is granted in the name of the owner/occupant.

Primary Statutory Reference: [273.124, subd. 14, para. \(a\)](#)

2. **Flooded agricultural homesteads:** Agricultural land and buildings that were agricultural homestead property for the 1997 assessment shall remain classified as agricultural homestead for subsequent assessments if:
  - a. The property owner abandoned the homestead dwelling located on the agricultural homestead as a result of the April 1997 floods; AND
  - b. The property is located in either Polk, Clay, Kittson, Marshall, Norman, or Wilkin counties; AND
  - c. The agricultural land and buildings remain under the same ownership for the current assessment year as existed for the 1997 assessment and continue to be used for agricultural purposes; AND
  - d. The dwelling occupied by the owner is located in Minnesota and is within 30 miles of one of the parcels of agricultural land that is owned by the taxpayer; AND
  - e. The owner notified the county assessor that the relocation was due to the 1997 floods, and the owner furnished the assessor any information deemed necessary by the assessor in verifying the change in dwelling.

This homestead should be granted in the name of the owner.

Primary Statutory Reference: [273.124, subd. 14, para. \(e\)](#)

**Agricultural Homestead**

3. **Tornado-affected agricultural homesteads:** Agricultural land and buildings that were agricultural homestead property for the 1998 assessment shall remain classified as agricultural homesteads for subsequent assessments if:
  - a. The property owner abandoned the homestead dwelling located on the agricultural homestead as a result of damage caused by a March 29, 1998 tornado; AND
  - b. The property is located in either Blue Earth, Brown, Cottonwood, Le Sueur, Nicollet, Nobles, or Rice counties; AND
  - c. The agricultural land and buildings remain under the same ownership for the current assessment year as existed for the 1998 assessment year; AND
  - d. The dwelling occupied by the owner is located in Minnesota and is within 50 miles of one of the parcels of agricultural land that is owned by the taxpayer; AND
  - e. The owner notifies the county assessor that the relocation was due to a March 29, 1998 tornado and the owner furnishes the assessor any information deemed necessary by the assessor in verifying the change in homestead dwelling.

This homestead should be granted in the name of the owner.

Homesteads can no longer be established under this provision but homesteads granted under this provision for the 1998 assessment may continue as long as the ownership remains the same and any dwellings remain uninhabited.

Primary Statutory Reference: [273.124, subd. 14, para. \(f\)](#)

4. **Flooded agricultural homesteads.** Agricultural land and buildings that were agricultural homestead property for the 2007 assessment shall remain classified as agricultural homestead for subsequent assessments if:
  - a. The property owner abandoned the homestead dwelling located on the agricultural homestead as a result of the August 2007 floods; AND
  - b. The property is located in either Dodge, Fillmore, Houston, Olmsted, Steele, Wabasha, or Winona counties; AND
  - c. The agricultural land and buildings remain under the same ownership for the current assessment year as existed for the 2007 assessment and continue to be used for agricultural purposes; AND
  - d. The dwelling occupied by the owner is located in Minnesota and is within 50 miles of one of the parcels of agricultural land that is owned by the taxpayer; AND
  - e. The owner notified the county assessor that the relocation was due to the August 2007 flood, and the owner furnished the assessor any information deemed necessary by the assessor in verifying the change in dwelling.



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**Agricultural Homestead**

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For taxes payable in 2009, the owner must have notified the assessor by December 1, 2008, of his/her eligibility for this special agricultural homestead.

Homesteads can no longer be established under this provision but homesteads granted under this provision for the 2008 assessment may continue as long as the ownership remains the same and any dwellings remain uninhabited.

Primary Statutory Reference: [273.124, subd. 14, para. \(i\)](#)

5. **Flooded agricultural homesteads.** Agricultural land and buildings that were class 2a homestead property under [section 273.13, subdivision 23, paragraph \(a\)](#), for the 2008 assessment shall remain classified as agricultural homestead for subsequent assessments if:
- (1) The property owner abandoned the homestead dwelling located on the agricultural homestead as a result of the March 2009 floods;
  - (2) The property is located in Marshall County;
  - (3) The agricultural land and buildings remain under the same ownership for the current assessment year as existed for the 2008 assessment year and continue to be used for agricultural purposes;
  - (4) The dwelling occupied by the owner is located in Minnesota and is within 50 miles of one of the parcels of ag land that is owned by the taxpayer; and
  - (5) The owner notifies the county assessor that the relocation was due to the 2009 floods, and the owner furnishes the assessor any information deemed necessary by the assessor in verifying the change in dwelling. Further notifications to the assessor are not required if the property continues to meet all the requirements in this paragraph and any dwellings on the agricultural land remain uninhabited.

## Special Agricultural Homestead

## Special Agricultural Homesteads

Special agricultural homesteads were introduced after a series of floods in the late 1990's forced residents off their properties. The legislature introduced these measures to allow those affected to retain their homesteads, even though they did not occupy the property anymore. Today, special agricultural homestead has expanded to include many scenarios that are not predicated on natural disasters. Given the rapid expansion of statute, some scenarios can be more difficult to evaluate than they appear. Therefore, in addition to the information contained in this section, please consult the department's agricultural homestead flowcharts located at the end of this module. These flowcharts give a glossary of terms and can help determine a property's eligibility for agricultural homestead.

General information can be found on the [Special Agricultural Homestead](#) page.

### What is the difference between agricultural homesteads and special agricultural homesteads?

- Agricultural homesteads are granted when property owners/qualifying relatives/qualifying persons of an entity/grantors **live** on the farm and meet all other requirements.
- Special agricultural homesteads are cases where the property owners/qualifying persons of an entity/grantors/active farmer that **do not live** on the farm but live within 4 cities/townships of the agricultural property.
- There are fewer types of qualifying relatives for special agricultural homestead- only grandchildren, children, siblings, or parents of the owner or of the spouse of the owner are considered qualifying relatives.
- In most cases, if a property is occupied, it doesn't matter who farms the land to qualify for agricultural homestead; but when the property is unoccupied the farmer/operator of the land is a very important factor when determining whether that property qualifies for special agricultural homestead.

All special agricultural homesteads must meet the following basic requirements:

- The agricultural property is at least 40 acres, including undivided government lots and correctional 40s.
- The person receiving homestead and their spouse must not claim another agricultural homestead in Minnesota.
- The person receiving homestead and their spouse must live within four cities or townships of the agricultural property.
- The person receiving homestead must be a Minnesota resident.

These requirements are described in more depth later in the module. Other factors apply depending on whether a property is owned by an individual, and entity, or a trust.

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### Special Agricultural Homestead

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We have tried to simplify the process by developing a flow chart that is based on three basic questions:

1. Who owns the property?
2. Who occupies the property?
3. Who farms the property?

Using the flow chart at the end of this module, and the answers to these questions, you should be able to determine who qualifies for special agricultural homestead. The flow chart includes a section to indicate on whose behalf the property receives the homestead. This is the person whose Social Security number or individual taxpayer identification number should be entered into the property tax system.

There is also a row to highlight which homestead application form should be used in each situation. You may use the appropriate re-application form in subsequent years when nothing has changed since the original special ag homestead application was completed.

Special Ag homestead applications are to be used for the current assessment year for taxes payable in the following year. It is important to remember that special Ag homesteads must be applied for on an annual basis based on current crop year. These forms should be provided to taxpayers by the county.

#### Special Agricultural Homestead for Property Owned by Individuals

If a person owns a piece of agricultural land but does not occupy it, they still may qualify for a special agricultural homestead. First, they must meet the basic criteria listed above: the agricultural parcel is at least 40 acres, the owner lives within four cities or townships from the agricultural parcel, and the owner and their spouse do not claim another agricultural homestead in Minnesota. Assuming those criteria are met, the next piece of information that is needed is **who farms** the property.

The easiest way for an assessor to determine who is farming the property is by checking who is listed as the operator on the farm's 156-EZ form that is submitted to the Farm Service Agency (FSA). If the farmer is the owner, owner's spouse, or a qualifying relative of the owner who is actively farming the property either on their own behalf or on behalf of the operating entity of which the relative is a qualified member, the property could qualify for special agricultural homestead. That farmer/operator must also live within four cities or townships of the property, must be a Minnesota resident, and must be **actively farming** the property. This means that they are participating in the day-to-day decision making, labor, administration, and management of the farm, and shares in a portion of the financial risks, profits, and losses. If these conditions are met, then the owner is eligible to receive a special agricultural homestead for the property.

If an entity is listed as the operator, then there are additional conditions that must be met to grant a special agricultural homestead. The owner of the property must be a **qualified person**

## Special Agricultural Homestead

of the entity for the property to qualify for a special agricultural homestead. A qualified person of the entity also must be actively farming, though it does not **need to be the owner**. That person also must be a Minnesota resident, not claim another agricultural homestead, and must live within four cities or townships of the property. If these conditions are met, then the qualified person who is actively farming receives the homestead for the property.

### Special Agricultural Homestead for Property Owned by Entities

If an authorized entity owns a property that is unoccupied, they potentially can qualify for a special agricultural homestead. Because the property is not owned by a physical person, a **qualified person** of the authorized entity must qualify the property. More information regarding entity-owned homesteads can be found in the “Farms Owned by Entities” section of this module.

Agricultural homestead for entity-owned property is limited to those entities with 12 or fewer members, shareholders, or partners that are authorized to own and farm land under Minnesota Statutes, [section 500.24](#). If there are 13 or more shareholders, members, partners, the entity cannot receive any homesteads. Assessors will need to verify the number of shareholders, members or partners involved in the entity. This information is typically specified in the legal documents (i.e. articles of incorporation, etc.) that are drawn up when the entity is formed. It should also be noted that if a shareholder, member, or partner is married, the spouse is not automatically considered a separate shareholder, member, or partner. Again, you must view the organizational documents to determine exactly who the shareholders, members, or partners are in the entity.

For an entity-owned special agricultural homestead, a qualified person of the owning entity must be actively farming the property. That same person must be a Minnesota resident, live within four cities or townships from the property, and they and their spouse must not claim another agricultural homestead in Minnesota. If these conditions are met, then the qualified person who is actively farming qualifies the property for a special agricultural homestead.

During the 2019 legislative session, statute was amended to allow unoccupied property owned by one entity to be operated by a different entity if certain conditions are met. Previously, if an entity-owned property was to receive special agricultural homestead, the same entity needed to both own **and** operate the property. Under the new law, a different entity may operate the property as long as:

1. the active farmer is a member of both the operating entity and the owning entity; and
2. more than half of the shareholders, members, or partners of **each** entity must be qualifying relatives.

If all these conditions are met along with the rest of the requirements for entity owned special agricultural homestead, the homestead would be granted to the **operating** entity on behalf of the active farmer.

Special Agricultural Homestead

**Special Agricultural Homestead for Property Owned by Trusts**

If a trust owns a piece of agricultural land but that is unoccupied, they still may qualify for a special agricultural homestead. Trust owned property follows very similar rules as individually owned property, but because there is no owner the **grantor** of the trust must meet the criteria to qualify for a special agricultural homestead. Note that this is not the beneficiary of the trust, but the person(s) who initially set up the trust.

For a trust-owned property seeking a special agricultural homestead, they first must meet the same above criteria- the agricultural parcel is at least 40 acres, the grantor lives within four cities or townships from the agricultural parcel, and the grantor and their spouse do not claim another agricultural homestead in Minnesota. Similar to individual-owned special agricultural homestead, it is important to determine if an authorized entity leases the agricultural property. The easiest way for an assessor to determine who is farming the property is by checking who is listed as the operator on the farm's 156-EZ form that is submitted to the Farm Service Agency (FSA). If there is **no** formal lease on the land and a person is listed as the operator, that person must be the grantor or qualifying relative of the grantor. That person must also live within four cities or townships of the property, must be a Minnesota resident, and must be **actively farming** the property. This means that they are participating in the day-to-day decision making, labor, administration, and management of the farm, and shares in a portion of the financial risks, profits, and losses. If these conditions are met, then the grantor is eligible to receive a special agricultural homestead for the property.

If an entity is listed as the operator, then there are additional conditions that must be met to grant a special agricultural homestead. If an entity is the operator, then there is an assumption that a lease exists for the entity to farm the property, even if there is no official lease recorded. The grantor or the grantor's surviving spouse of the property must be a **qualified person** of the entity in order for the property to qualify for a special agricultural homestead. A qualified person of the entity also must be actively farming, though it does not need to be the grantor. That farmer also must be a Minnesota resident, not claim another agricultural homestead, and must live within four cities or townships of the property. If these conditions are met, then the qualified person who is actively farming receives the homestead for the property.

Here are a few situations in which "special agricultural homesteads" may be granted to trust-held property:

**Situation 1**

Agricultural property that is held under a trust that is not occupied but is actively farmed by the grantor of the trust, the spouse of the grantor, or a grandchild, child, sibling or parent of the owner/grantor or spouse/grantor may also qualify for special agricultural homestead under [M.S. 273.124, subd. 14, paragraph \(b\) clause \(ii\)](#):

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### Special Agricultural Homestead

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- The agricultural property must be at least 40 acres in size.
- The property can be actively farmed on behalf of an authorized entity of which the active farmer is a qualified person.
- Both the grantor of the trust and the active farmer must be Minnesota residents.
- Neither the grantor nor the grantor's spouse can claim another agricultural homestead in Minnesota.
- Neither the grantor nor the active farmer can live farther than 4 cities/townships or a combination thereof from the agricultural property (unless the grantor or the grantor's spouse is required to live in employer-provided housing).

#### Situation 2

If a grantor or grantor's surviving spouse is a member, shareholder, or partner of a family farm corporation, joint farm venture, limited liability company, or partnership of which the operating a family farm **and the property is leased by the trust to that entity**, the property may qualify for homestead if a shareholder, member or partner of the corporation, joint farm venture, limited liability company or partnership occupies and uses the property as a homestead. [M.S. [273.124, subdivision 21, paragraph \(c\).](#)]

This provision is not technically "active farming" because the property is occupied and used as a homestead, but is similar to those determinations because of the leasing of the property to an authorized entity. Please note that this applies to cases where the grantor is a member of a qualifying entity or cases where the grantor has passed away and the *surviving spouse* is a member of a qualified entity (i.e., the trust is not dissolved and still owns the property but the grantor has passed away).

#### Situation 3

If a grantor or grantor's surviving spouse is a member, shareholder, or partner of a family farm corporation, joint farm venture, limited liability company, or partnership which is operating a family farm **and the property is leased by the trust to that entity**, the property may qualify for homestead if the property is at least 40 acres (including undivided government lots and correctional 40's) and a shareholder, member, or partner of the tenant-entity is actively farming the property on behalf of the corporation, joint farm venture, limited liability company, or partnership.

Please note that this applies to cases where the grantor is a member of a qualifying entity or cases where the grantor has passed away and the *surviving spouse* is a member of a qualified entity (i.e., the trust is not dissolved and still owns the property but the grantor has passed away). [M.S. [273.124, subdivision 21, paragraph \(c\).](#)]

Primary Statutory Reference: [500.24, 273.124](#)

## Special Agricultural Homestead

**FAQ's for Property Owned by a Trust**

**A property is owned by a trust. The grantor of the trust is deceased, but the daughter has applied for relative homestead. Can homestead be applied if the grantor/relative is deceased?**

The daughter who is occupying the property would qualify for a relative homestead because she is a qualifying relative of the grantor of the trust, even if that grantor is deceased as stated in Minnesota Statute [273.124, subdivision 21](#).

**Are the homestead rules different if the trust is created by court order?**

Minnesota Statutes, [section 273.124, subdivision 21](#), outlines the provisions for which property held under a trust may be eligible for homestead treatment.

In the scenario outlined, a qualifying surviving relative occupies the property and uses it for purposes of a homestead. The law does not state that trusts created by a court order should be treated differently, therefore the property is eligible for homestead.

**An agricultural property was put into a trust with the grantor retaining life estate. The grantor had to move into a nursing home. There is a second residence on the property that is occupied by the grantor's son and daughter-in-law. That second residence is receiving a residential relative homestead. The grantor of the trust has passed away. How should homestead be granted to this property when the grantor is deceased?**

Language in Minnesota Statutes, [section 273.124, subdivision 21, paragraph \(b\)](#) allows for agricultural relative homesteads on trust-held properties if the property is occupied by "a relative or *surviving relative* of the grantor who meets the requirements of subdivision 1, paragraph (d). In other words, although the grantor of the trust has passed away, a qualifying surviving relative occupies the property. Therefore, the property may qualify for an agricultural relative homestead.

There is also the question if the trust is considered "null and void" when the grantor passes away. The answer, of course, depends. When the conditions of the trust are satisfied or if it is dissolved, the estate would be disposed of according to the trust. At that time, the property would transfer ownership depending on the beneficiary or beneficiaries of the estate. At the time of transfer, the county will need to review the homestead status according to the new ownership.

**Special Agricultural Homestead**

**A farmer put all of his property into a trust. His grandson lives in the farmhouse. His son and daughter receive an actively farming special agricultural homestead on the agricultural land and the house, garage, and one acre is classified as a residential relative homestead. The farmer is now deceased. Can we continue to grant both the son/daughter actively farming special agricultural homestead and the residential relative homestead until the property ownership changes?**

In our opinion, the death of the grantor of the trust does not change the homesteads on this property. The son/daughter and the grandson remain qualifying relatives of the grantor of the trust. Therefore, the actively farming special agricultural homestead and the residential relative homestead may continue until such time as the property's ownership changes (e.g., when the trust is dissolved).

**A farm property was transferred from individual ownership to a trust. The grantors of the trust are parents and the trustees are their two children. The grantors live in another county (away from the trust property) and the trustees each own individual properties that are contiguous to the trust property. The trust land is farmed by a non-relative. Can the trust property be linked to the qualifying relative's properties for homestead treatment?**

Only the grantors of a trust or their spouse can link an individually-owned parcel to another parcel held by the trust. The trustees cannot be linked to the trust property and cannot receive homestead on it. In this particular case, because the property is farmed by a non-relative, the property is not eligible for homestead benefits.

**Four Cities/Townships or Combination Thereof Rule**

This rule is consistent for **all** types of non-contiguous farm homestead property. Non-contiguous farmland must be located within four cities, townships or a combination of four cities and townships in order to be linked to the base parcel and therefore qualify for homestead. For example, if the base parcel is located in township A, then farm land could also be in township A, B, C, D or E to qualify for homestead. Land located in township F does not qualify.

This rule has been tested and upheld in Minnesota Tax Court (see *Allan W. and Janet T. Lamkin v. County of Sibley*, C2-02-70, 2002).

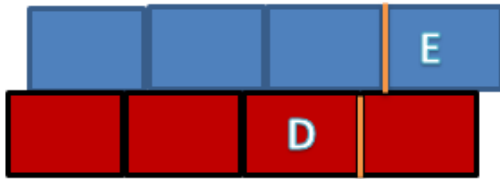
<b><u>Base Parcel</u></b>	<b>YES</b>	<b>YES</b>	<b>YES</b>	<b>YES</b>	<b>NO</b>
Township A	Township B	Township C	Township D	Township E	Township F



Special Agricultural Homestead

It should also be noted that corner-to-corner townships can be counted as contiguous. An example illustrated later should help clarify this explanation.

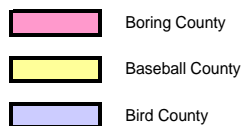
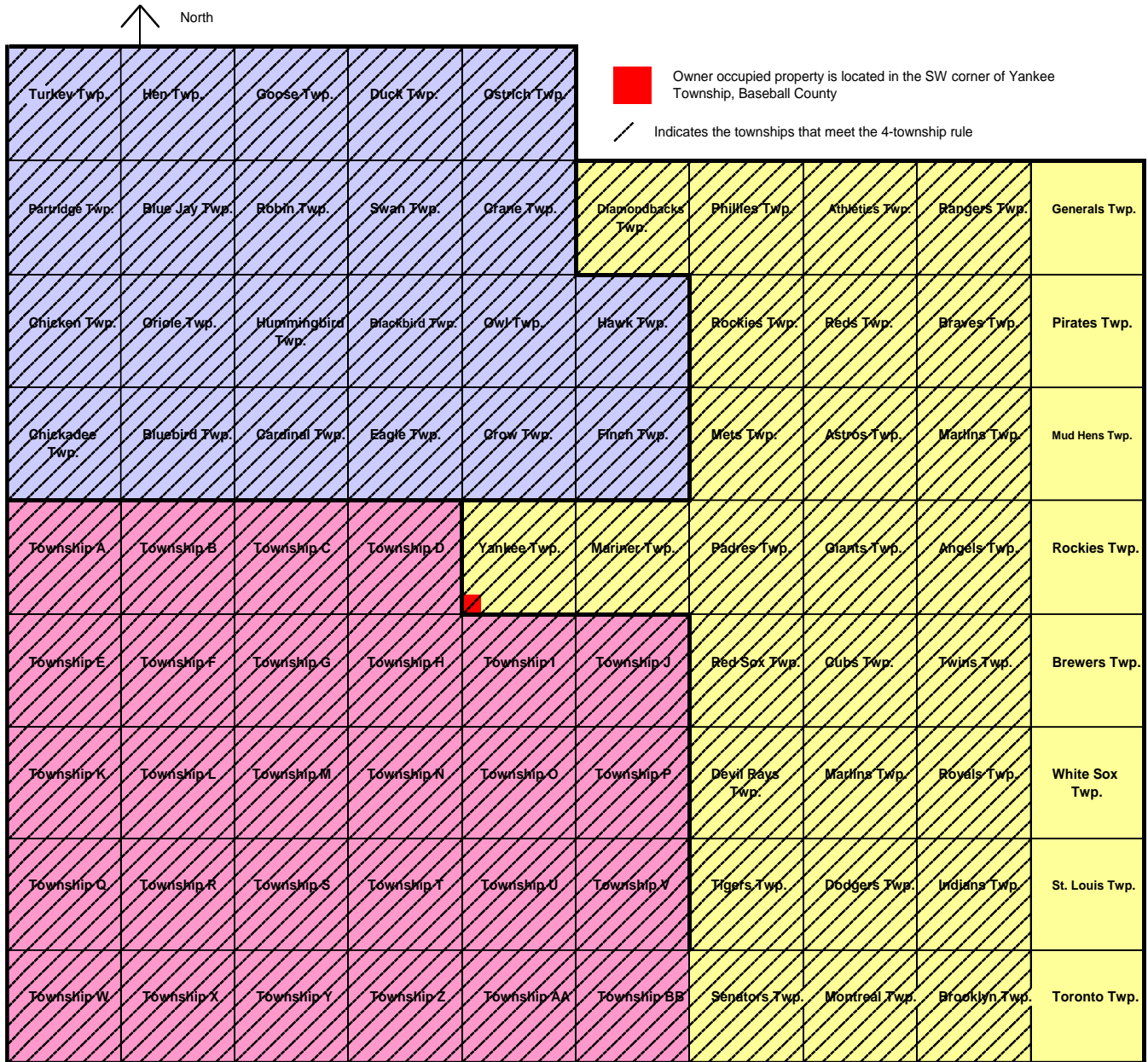
Additionally, some townships do not line up corner-to-corner because of correction lines. These are lines that correct for the curvature of the earth, resulting in townships not being perfectly aligned. The Department of Revenue has determined that two townships that **would** be contiguous without these correction lines can be treated as contiguous. In the example below, the correction line is highlighted, and Township D and E can be treated as contiguous.



**It must be stressed that all non-contiguous land must qualify for the agricultural classification on its own merits under Minnesota Statutes, [section 273.13](#), meaning that there must be at least 10 acres in agricultural production, or there must be an exclusive or intensive agricultural use. Just because the base parcel qualifies for the ag class, it does not mean that everything a farmer owns within 4 cities/townships then automatically qualifies for ag homestead.** Properties that do not meet the statutory requirements for the agricultural classification under [section 273.13](#) are not to be considered part of the homestead, and are to be classified according to use.

Special Agricultural Homestead

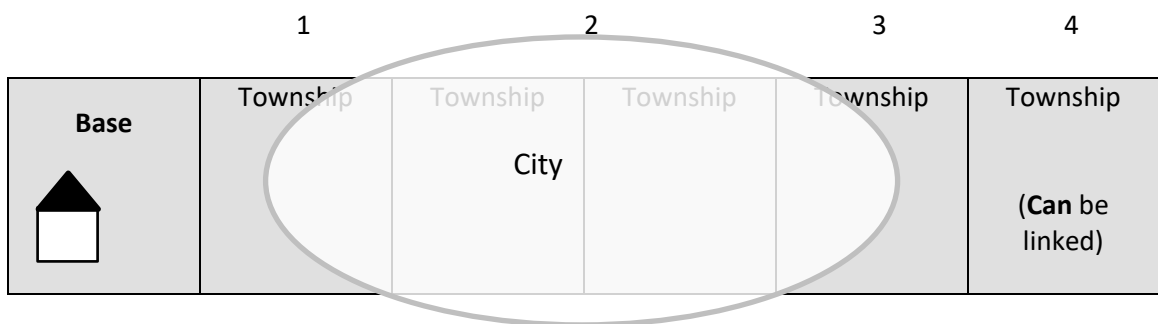
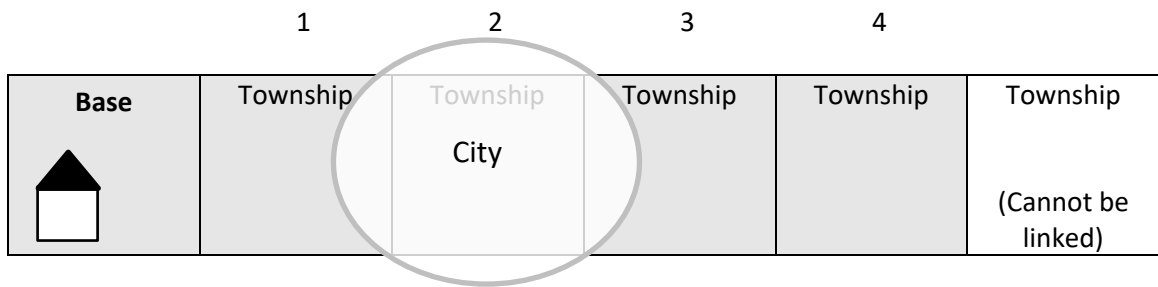
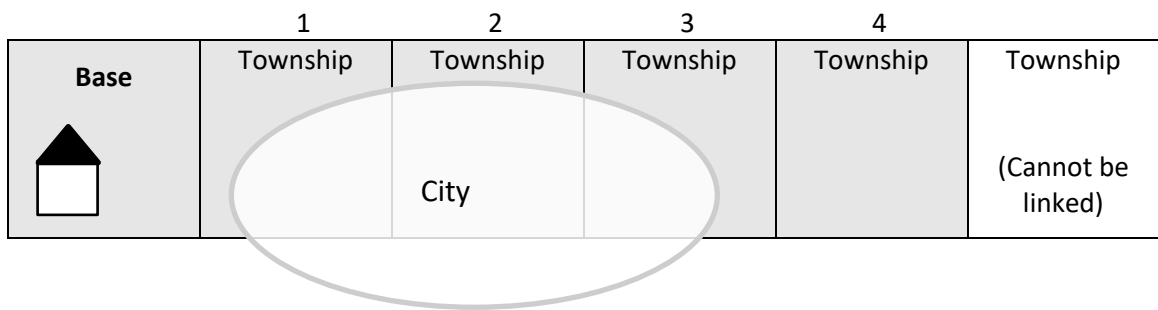
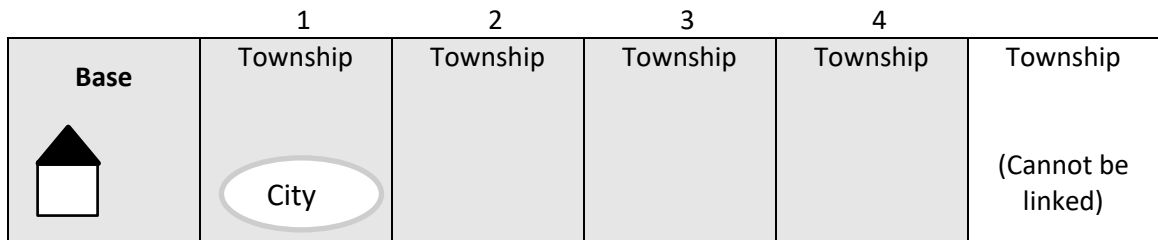
Four Township Rule



**Special Agricultural Homestead**

Though not specifically stated, Department of Revenue has said the townships referred to in this statute include congressional townships. If unorganized districts or municipalities are located within these townships, they should not be counted in addition to the township. However if the unorganized district or municipality covers multiple townships, the townships should be counted.

**Examples:**



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**Special Agricultural Homestead**

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**Over 50% Rule**

This policy was developed in 2001 and applies *only to special agricultural homesteads where no one lives on the farm.*

In order for land to qualify for an actively farming homestead, over 50% of the class 2a land (**excluding** CRP, RIM, CREP, etc.) must be actively farmed by the person who is receiving the homestead.

**Information:**

- **Farmed land** is defined as land that is used for agricultural purposes and qualifies as class 2a.
- Land enrolled in CRP/CREP/RIM, by definition, is **not farmed land**, even if it qualifies for the 2a classification. The CRP/CREP/RIM acres are excluded from determining whether the property owner actively farms 50% of the class 2a land.
- Wetlands, wastelands, wooded land, etc. and other acreage classed by the assessor as 2b rural vacant land or other are **not farmed land**, even if they are a part of the agricultural homestead land mass.
- Land that is rented out to another farmer who is farming it **is** considered to be agricultural (farmed) class 2a land.
- Each non-contiguous land mass must qualify on its own merits. Just because a farmer meets the requirements for one of the land masses they owns, that *does not* carryover to all property the farmer owns within four townships/cities.
- The rule *does* allow a farmer to enroll only one parcel rather than an entire contiguous land mass in actively farming if he/she is farming only one parcel in a contiguous land mass.

The examples on the next page should help provide clear direction as to whether or not a property qualifies for a special agricultural homestead.

Special Agricultural Homestead

**Example #1**

A farmer lives on a residential parcel in City X and receives a residential homestead. The farmer also has a 200-acre farm, but he only actively farms 100 acres himself. He rents 60 acres to his neighbor. The other 40 acres are wetlands and are class 2b.

Step #1: Take the total acreage of the parcel/land tract and subtract the acreage that is not farmed.

$$(200 \text{ total acres} - 40 \text{ acres wetland}) = 160 \text{ farmed acres}$$

Step #2: Divide the number of acres actively farmed by the owner by the number of total farmed acres.

$$100/160 = .625 \text{ or } 62.5\%$$

Step #3: The answer must be greater than .50 or 50% in order to be eligible for a special ag homestead.

$$.625 (62.5\%) > .50 (50\%)$$

*The property may be granted an actively farming homestead if all other requirements are met.*

**Example #2**

A farmer lives on a residential parcel in City X and receives a residential homestead. The farmer also owns three contiguous 100-acre parcels which are entirely class 2a agricultural land and are farmed. He rents out two of the parcels and actively farms the third parcel himself. In this case, he only farms 1/3, or 33 1/3%, of the farmed land mass. He could receive a special ag homestead on only the 100-acre parcel that he actively farms. The other two 100-acre parcels **would not** be eligible for an actively farming homestead.

Step #1: Take the total acreage of the parcel/land tract and subtract the acreage that is not farmed.

$$(300 \text{ total acres} - 0 \text{ acres that are not farmed}) = 300 \text{ farmed acres}$$

Step #2: Divide the number of acres actively farmed by the owner by the number of total farmed acres.

$$100/300 = .333 \text{ or } 33.3\%$$

Step #3: The answer must be greater than .50 or 50% in order to be eligible for an actively farming homestead.

$$.333 (33.3\%) < .50 (50\%)$$

*\*The entire contiguous land mass that he owns **cannot** be granted an actively farming homestead. **However**, the farmer may receive a special ag homestead on the 100-acre parcel that he is actively farming. The two parcels that are rented to the neighbor should remain class 2a agricultural non-homestead.*

## Special Agricultural Homestead

**Special Ag Homesteads after the Assessment Date (Mid-Year Homesteads)**

Minnesota Statutes, [section 273.124, subdivision 9](#), provides that when *non-homesteaded* property is purchased after the assessment date but on or before December 31, and the property is used in conjunction with the primary homestead, it is eligible for a mid-year homestead provided the owner makes application by the statutory deadline of December 31.

However, special circumstances may arise in the case of special ag homesteads because the homestead is granted or denied based on the **current crop year**. If a buyer purchases property from a seller who occupied the property as their homestead on January 2 of the assessment year, obviously the homestead would continue for that assessment year until January 2 of the following assessment year, when the homestead would be subject to change. Assessors will have to use their judgment in these cases, keeping in mind the requirements of farming during the “current crop year.” The following examples are meant to provide guidelines.

**Example #1**

A buyer purchases non-homesteaded agricultural land on April 1 – can the buyer file for a special ag homestead on the property? **Answer:** Yes.

**Example #2**

A buyer purchases non-homesteaded agricultural land on July 1 (the crop has been planted by the previous owner but has not been harvested) – can the buyer file for special ag homestead on the property? **Answer:** It depends. If the buyer plans to farm it, harvest it, etc., for the remainder of the current crop year and meets all of the other requirements, a special ag homestead may be granted.

**Example #3**

A buyer purchases non-homesteaded ag land on November 30 (the seller planted and harvested the crop) – can the buyer apply for a special ag homestead since he owns the property on December 31 but did not perform any of the work for the current crop year? **Answer:** No. Since the current crop year is over, the farmer should not be granted a special ag homestead for the current year.

**Example #4**

A buyer purchases non-homesteaded ag land (pasture land) – can the buyer apply for a special ag homestead since he owns the property on December 31? **Answer:** Possibly if the buyer can prove that he/she is using it agriculturally by having livestock in the pasture. This is where the decision is best left to the discretion of the assessor.

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**Special Agricultural Homestead**

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**Example #5**

A husband and wife have a residential homestead. Every other year, they lease their agricultural land to a corporation which farms potatoes. They farm it themselves on the alternating years. Since special ag homestead must be applied for on an annual basis, can they receive a special ag homestead during the years that they actually farm? **Answer:** Yes. However, the assessor should require that they fill out the full application in the years they farm. In this case, it would not be appropriate for them to fill out the re-application for the years they farm.

**Poultry**

There has been some confusion in that in Minnesota Statutes, [section 500.24](#), the definition of farming states that farming does not include poultry production. However, poultry is considered to be an agricultural product in Minnesota Statutes, [section 273.13](#), for purposes of classifying property. Therefore, poultry production should not preclude anyone from receiving a homestead under Minnesota Statutes, [section 273.124](#).

**Actively Engaged in Farming vs. Actively Farming**

Prior to examining the specific scenarios of special agricultural homesteads, we must have a basic knowledge differences between those who are “actively farming” and those who are “actively engaged in farming.” There are several differences between these two concepts.

**Actively Engaged in Farming** applies when the agricultural property is **occupied**. It also involves participation on the farm on a regular and substantial basis but it is not as much direct involvement and participation as “actively farming.”

**Actively Farming** generally applies in situations where the agricultural property is **unoccupied**. The person must participate in the day-to-day decision-making and labor on the farm. They must contribute to the administration and management of the farming operation and they must assume all or a portion of the financial risks and sharing in any profits or losses of the farm.

Using the Flow Chart

The flow chart is organized around three key questions:

- **Who owns the property?**
- **Who lives on the property?**
- **Who farms the property?**

REMEMBER: It is assumed that the owner has enough ownership interest in the property to claim homestead, and it is assumed that the land meets the requirements for the agricultural classification as specified under Minnesota Statutes, [section 273.13, subdivision 23](#).



Special Agricultural Homestead

**Actively Farming Scenarios**

Actively farming homesteads generally occur where no one occupies the farm. In order to qualify for an “actively farming” homestead, there are several special provisions to keep in mind:

- If a property is entirely enrolled in CRP/CREP/RIM, it is NOT eligible for an actively farming homestead, because by definition, it cannot be farmed.
- Over 50% of the class 2a agricultural land excluding CRP, RIM, CREP, etc. (on either the parcel or the contiguous land mass) must be actively farmed by the person receiving the homestead.
- Property with an actively farming homestead is NOT eligible for PTR because there is no HGA that receives the homestead.

1. Agricultural property that is owned by a natural person, but not occupied, and is actively farmed by the owner, the owner’s spouse, OR a grandchild, child, sibling or parent of the owner or the owner’s spouse. It may be farmed on behalf of an authorized entity of which the active farmer is a qualified person.
  - The agricultural property must be at least 40 acres in size.
  - Both the owner and the active farmer must be Minnesota residents.
  - Neither the owner nor the owner’s spouse may claim another agricultural homestead in Minnesota.
  - Neither the owner nor active farmer can live farther than 4 cities/townships or a combination thereof, from the actively farmed agricultural property (unless the owner or the owner’s spouse is required to live in employer-provided housing).

Primary Statutory Reference: [273.124, subd. 14, para. \(b\), clause \(i\)](#)

2. Agricultural property is owned by a natural person, but not occupied, and is leased from the owner who is a qualified person in the authorized entity, to that authorized entity, and the property is actively farmed by a qualified person of that entity.
  - The agricultural property must be at least 40 acres in size.
  - The qualified person who is actively farming must be a Minnesota resident.
  - Neither the qualified person actively farming nor the farmer’s spouse can claim another agricultural homestead in Minnesota.
  - Neither the owner nor the qualified person who is actively farming the property lives farther than 4 cities/townships or a combination thereof from the agricultural property. (There is no exception to this requirement!)

Primary Statutory Reference: [273.124, subd. 14, para. \(g\)](#)

3. Agricultural property is owned by an authorized entity, but is not occupied, and is actively farmed by a qualified person of that entity.
  - The agricultural property must be at least 40 acres in size.



Special Agricultural Homestead

- The qualified person who is actively farming the property on behalf of the entity must be a Minnesota resident.
- Neither the qualified person who is actively farming nor their spouse can claim another agricultural homestead in Minnesota.
- The qualified person who is actively farming cannot live farther than 4 cities/townships or a combination thereof from the agricultural property. (There is no exception to this requirement!)

Primary Statutory Reference: [273.124, subd. 14, para. \(g\)](#)

4. Agricultural property is held under a trust, but is not occupied, and is actively farmed by the grantor of the trust, spouse of the grantor, or a grandchild, child, sibling or parent of the owner/grantor or spouse/grantor.
  - The agricultural property must be at least 40 acres in size.
  - The property can be actively farmed on behalf of an authorized entity of which the active farmer is a qualified person.
  - Both the grantor of the trust and the active farmer must be Minnesota residents.
  - Neither the grantor nor the grantor's spouse can claim another agricultural homestead in Minnesota.
  - Neither the grantor nor the active farmer can live farther than 4 cities/townships or a combination thereof from the agricultural property (unless the grantor or the grantor's spouse is required to live in employer-provided housing).

Primary Statutory Reference: [273.124, subd. 14, para. \(b\), clause \(ii\)](#)

5. If the grantor of a trust or the grantor's surviving spouse is a member, shareholder, or partner of a family farm corporation, joint farm venture, limited liability company, or partnership operating a family farm **and the agricultural property is leased by the trust to that entity**, the property may qualify for homestead if the property is at least 40 acres (including undivided government lots and correctional 40's) and a shareholder, member, or partner of the tenant-entity is actively farming the property on behalf of the corporation, joint farm venture, limited liability company, or partnership.

Please note that this applies to cases where the grantor is a member of a qualifying entity or cases where the grantor has passed away and the *surviving spouse* is a member of a qualified entity (i.e., the trust is not dissolved and still owns the property but the grantor has passed away).

Primary Statutory Reference: [273.124, subd. 21, paragraph \(c\)](#)

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## Special Agricultural Homestead

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### Special Ag Homestead Applications

In 2019, the Department of Revenue, in collaboration with a working group of county administrators from across Minnesota, released a set of new special agricultural homestead applications. The working group decided that the applications should be focused on the **owner** rather than on the active farmer, which reduced the number of applications from six to three:

- Individually owned special agricultural homestead
- Entity owned agricultural homestead (both occupied **and** unoccupied)
- Trust owned special agricultural homestead

When processing an application, it is the assessor's role to verify the information provided. Assessors are able to request additional information if necessary to verify an applicant's eligibility for homestead. The applications are not a "checklist" for granting/denying homestead, they are simply a tool to collect information to assist the assessor during the verification process.

**Re-applications** are only to be used for situations in which **nothing has changed** (ownership, farmer, and property) from the original application. If anything does change, applicants must complete a new homestead application.

***NOTE: Revenue does not post these forms to the Department of Revenue website because we do not administer homestead. Property owners should contact the county assessors office for a copy of the application. If a county needs a copy of the application, they should contact Revenue.***

Many applications require the applicant to provide a schedule F or similar form with their application. A "Schedule F" is an IRS form that is filed with income tax returns to report passive and non-passive income/losses from a farming operation. It is rare that a farmer does not have to file a Schedule F to report individual income. These situations should be examined on a case-by-case basis by the assessor.

Business entities file the following types of forms with the IRS for income tax purposes:

- Form 1065 - U.S. Return of Partnership Income
- Form 1120 - U.S. Corporation Income Tax Return
- Form 1120S – U.S. Income Tax Return for an S Corporation

Farm Service Agency (FSA) forms should indicate who is listed as the owner and operator of the farm. The information on the FSA forms are helpful for the assessor to verify ownership of the property and the operation of the property. These forms are not required by statute, however assessors do have the authority to require any additional documentation before they make any decisions on homestead applications.

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## Special Agricultural Homestead

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### Linking Parcels for Special Agricultural Homestead

#### What is the difference between linking agricultural homesteads and linking special agricultural homesteads?

There are more requirements that must be met when linking special agricultural homesteads versus linking agricultural homesteads. When the agricultural land is occupied and agricultural homestead has been established on that base parcel you can link that agricultural homestead to any other non-contiguous 2a agricultural land that is owned by the same owner and is within 4 cities/townships from the base parcel.

This process differs when dealing with special agricultural homestead. To link special agricultural homestead, you cannot use the property where the owner lives as the base parcel. Instead, you must establish special agricultural homestead on one of the unoccupied agricultural parcels, making that parcel the established main parcel. Every other agricultural parcel must meet the requirements for special agricultural homestead *prior* to linking that homestead. When determining which parcel to use for the established main parcel, it has always been our recommendation that the parcel that is the most contiguous parcel to the residence should be the established main parcel.

#### How are special agricultural homesteads linked?

The following requirements must be met for **each parcel** that you want to link special agricultural homestead to:

- The parcel is under the same ownership as the established main parcel.
  - Please note, the three exceptions listed earlier for agricultural homestead linking also apply to special agricultural homestead.
- A qualified person (qualifying relative of owner/grantor/shareholder/member of an entity) must be farming the land on **behalf of the owner**.
- The agricultural parcel is at least 40 acres.
- The owner/grantor **and the qualified person actively farming lives** within 4 cities/townships of the agricultural property.
- If an established main parcel is leased for farming purposes and a qualified person of the entity is farming, then all other non-contiguous parcels must be **farmed by that same entity and farmer**. In this situation, and the homestead would go to the farmer rather than the owner.
  - **It is important to note that** if an established main parcel is not leased but the non-contiguous agricultural land is leased, then the special agricultural homestead linking should be denied.

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## Special Agricultural Homestead

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### Important Requirements

- When linking special agricultural homestead, you should be linking from the established main parcel, not the owner's residence. Therefore, you will look at the ownership of the established main parcel when linking, not the ownership of the residence.
  - **Note:** This is for linking purposes only. If you currently use the "MP" (typically the residential property) for taxing or CAMA purposes, you may continue that practice for those purposes **only**.
- Use the residence of the owner **and** active farmer when determining whether the agricultural parcels are within 4 cities/townships. Remember, all of the agricultural parcels must be within 4 cities/townships of the residence to qualify. Do not start counting cities/townships from the established main parcel; you must count from the residence.
- Use the Homestead Linking Checklist (see next page) after you have established special agricultural homestead and are ready to link to non-contiguous agricultural parcels.
- When a parcel is leased to an authorized entity for farming purposes, special agricultural homestead linking should be denied if the established main parcel is not leased to the same farming entity. If the established main parcel is leased for farming purposes, parcels leased to the same authorized entity must have the **same qualified person** actively farming as the established main parcel in order to be linked.
- The same rules for linking agricultural homestead apply to special agricultural homestead around ownership interest. If the established main parcel has multiple owners, the degree of homestead the owners are entitled to would determine the amount of homestead that can be linked to additional parcels.

Special Agricultural Homestead

Homestead Linking Checklist

**Agricultural Homestead (Occupied)**

Use this checklist for agricultural properties where the owner or other qualified person lives on the farm. You would use this checklist after you have established agricultural homestead on the base parcel using the appropriate flowchart.

- The non-contiguous parcel is located within 4 cities/townships of the base parcel.
- The non-contiguous parcel is owned by the same owner/entity/trust as the base parcel.
- The non-contiguous parcel is classified as agricultural.

If these requirements are met, you can link the agricultural homestead from the base parcel to any other agricultural parcels that meet these requirements.

**Special Agricultural Homestead (Not occupied)**

Use this checklist for special agricultural properties where the established main parcel is not occupied. You would use this checklist after you have established special agricultural homestead on the main parcel using the appropriate flowchart. Do not use the residence of the owner as your base parcel; you must establish special agricultural homestead on the established main parcel prior to linking the homestead.

Be sure to use this checklist for **each** agricultural parcel that you are linking the homestead to.

- The non-contiguous parcel is located within 4 cities/townships of the **residence of the owner/grantor and farmer**.
- The non-contiguous parcel is owned by the same owner/entity/trust as the **established main parcel** or an exception applies.
- The non-contiguous parcel is classified as agricultural.
- The non-contiguous parcel is at least 40 acres in size.
- The non-contiguous parcel is being farmed by the owner, grantor, qualifying relative, or a qualified person of an authorized entity on behalf of the owning entity.
- (ENTITY OWNED PROPERTY ONLY)** Neither the **farmer** nor their spouse can claim another agricultural homestead in MN.
  - This is not a requirement for individually owned or trust owned property since the homestead is being granted to the owner/grantor or their spouse.

If all of these requirements are met, you can **link** the special agricultural homestead from the **established main parcel** to any other agricultural parcels that meet these requirements.

Special Agricultural Homestead

**Example Scenarios for Special Agricultural Homestead Linking**

**Individually Owned Example:**

**Scenario:**

- John and his wife Mary have a residence in town.
- Their residence is classified as a 1a Residential Homestead.
- John and Mary also individually own 5 non-contiguous agricultural parcels.
- All 5 parcels (A-E) are located within 4 townships of their residence.
- All 5 parcels are at least 40 acres and farmed by John.

**Question:** Would their non-contiguous agricultural parcels qualify for homestead?

**Finding the Answer:**

Now that we have all of the information, we can move forward with determining which parcels qualify for homestead.

- **Step 1:** Review where John and Mary's residence is located.
- **Step 2:** Verify that each non-contiguous parcel is located within 4 cities/townships of their residence.
- **Step 3:** Determine which non-contiguous agricultural parcel will be the established main parcel. In our scenario, it appears that parcel A will be the established main parcel. Again, we recommend the established main parcel should be the one located closest to the residential homestead.
- **Step 4:** Using the agricultural homestead "*Individually Owned*" flowchart, determine whether parcel A qualifies for special agricultural homestead. Once you have established homestead on parcel A, it is now referred to as the "established main parcel" for linking purposes.
  - **Note:** If parcel A would not have qualified for special agricultural homestead, you may use the next contiguous parcel.
- **Step 5:** Now that special agricultural homestead has been established on parcel A, you can begin to link homestead to the other non-contiguous agricultural parcels. Remember, each parcel must meet the same requirements for special agricultural homesteads as the established main parcel before you can link. This is when you want to reference the checklist.

**Answer:** Upon review of the information, parcels A–E would qualify for special agricultural homestead. Parcel A is the established main parcel and qualifies for special agricultural homestead, parcels B–E are all: owned by John and Mary, within 4 cities/townships of John and Mary's residential residence, are at least 40 acres, and are farmed by John (the owner).

Special Agricultural Homestead

**Multiple Owners Scenario w/Exception Example:**

**Scenario:**

- John and Tom each have a residence in town.
- Their residence is classified as a 1a Residential Homestead.
- John and Tom also own non-contiguous agricultural parcels that are within 4 cities/townships of their residences.
- Parcel 1 is owned by John and Tom, farmed by John & Tom.
- Parcel 2 is owned by John, farmed by John.
- Parcel 3 is owned by Tom, farmed by Tom.
- All three parcels are at least 40 acres in size.

**Question:** Do the non-contiguous agricultural parcels qualify for homestead?

**Answer:** First we must establish special agricultural homestead on one of the parcels. For the purpose of this scenario, we will call parcel 1 the established main parcel; this is where we will establish the special agricultural homestead using the *“Individually Owned”* flowchart.

- **Who owns:** John and Tom, unrelated.
- **Who occupies:** Property is unoccupied.
- **Who farms:** John and Tom.
- **Is the ag property at least 40 acres:** Yes.
- **Does the owner/owner’s spouse claim another ag homestead in MN:** No for both owners.
- **Does the owner and the active farmer live within 4 cities/townships of the property:** Yes for both owners.

Since all requirements have been met, parcel 1 qualifies for special agricultural homestead, 50% special agricultural homestead should be granted to John and 50% special agricultural homestead should be granted to Tom.

Now that special agricultural homestead has been established on the established main parcel (parcel 1), we can now review the other parcels for special agricultural homestead linking. One thing to note, we are linking from the established parcel, not the residence of the owners. Using the checklist, all the requirements must be met.

- ✓ The non-contiguous parcel is located within 4 cities/townships of the residence of the owner **and** the active farmer.
- ✓ The non-contiguous parcel is owned by the same owner as the established main parcel.
- ✓ The non-contiguous parcel is classified as agricultural.
- ✓ The non-contiguous parcel is at least 40 acres in size.

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**Special Agricultural Homestead**

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- ✓ The non-contiguous parcel is being farmed by a qualified person.

This is a situation where the ownership is different; however, there are exceptions to the rule of linking different ownership properties.

One of those exceptions states:

- The established main parcel which is owned by individuals may be linked to a parcel of property that the owner owns as an individual (and vice versa).

In this example, John owns parcel 2 as an individual and parcel 1 is owned by John and Tom and individuals. Therefore, John's 50% homestead can be linked to parcel 2 and parcel 2 would receive 50% special agricultural homestead. The same process would apply to parcel 3, Tom's 50% homestead can be linked to parcel 3 and parcel 3 would receive 50% special agricultural homestead.



Special Agricultural Homestead

**Entity Owned Scenario Example:**

- XYZ LLLP owns five parcels of non-contiguous agricultural property
- All five parcels are unoccupied.
- XYZ is made up of 3 shareholders: Jim, Joe, and Sarah.
- Parcels 1–3 are farmed by Jim, a qualified person of the entity.
- Parcels 4 & 5 are farmed by Joe, a qualified person of the entity.
- Both farmers live in town which is within 4 cities/townships of the five parcels.
- Neither of the farmers or their spouses claim another ag homestead.

**Question:** Which of these parcels qualify for special agricultural homestead?

**Answer:** First, we must establish special agricultural homestead. Since this is entity-owned we will need to establish on one of the three parcels Jim farms and then review for linking. Then, we will need to establish on one of the two parcels Joe farms and then review for linking. Remember, entity owned land can receive up to twelve agricultural homesteads, one for each shareholder/member. For the purpose of this scenario, we will call parcel 1 the established main parcel for Jim; this is where we will establish the special agricultural homestead using the “Entity Owned” flowchart.

- **Who owns:** XYZ LLLP.
- **Who occupies:** Property is unoccupied.
- **Who farms:** Jim, a qualified person of the authorized entity on behalf of XYZ LLLP.
- **Is the ag property at least 40 acres:** Yes.
- **Does the qualified person who is actively farming claim another ag homestead in MN:** No.
- **Does the qualified person who is actively farming live within 4 cities/townships of the property:** Yes.

Since all requirements have been met, parcel 1 qualifies for special agricultural homestead.

Now that special agricultural homestead has been established on the established main parcel (parcel 1), we can now review parcels 2-3 for special agricultural homestead linking. One thing to note: we are linking from the established main parcel, not the residence of the farmer. Using the checklist, all the requirements must be met for parcels 2–3.

- ✓ The non-contiguous parcel is located within 4 cities/townships of the residence of the farmer.
- ✓ The non-contiguous parcel is owned by the same owner as the established parcel.
- ✓ The non-contiguous parcel is classified as agricultural.
- ✓ The non-contiguous parcel is at least 40 acres in size.
- ✓ The non-contiguous parcel is being farmed by a qualified person.
- ✓ Neither the farmer nor their spouse is claiming another agricultural homestead in MN.

### Special Agricultural Homestead

- Note, this requirement is only for entity owned property because the farmer will receive the homestead.

The requirements for special agricultural homestead linking have been met, therefore the homestead can be linked from parcel 1 to parcels 2 and 3. Jim, the active farmer would receive the homestead.

Now that we have reviewed the parcels farmed by Jim, we will review the parcels farmed by Joe. First we must establish special agricultural homestead on one of the two parcels. For the purpose of this scenario we will call parcel 4 the established main parcel.

- **Who owns:** XYZ LLLP.
- **Who occupies:** Property is unoccupied.
- **Who farms:** Joe, a qualified person of the authorized entity on behalf of XYZ LLLP.
- **Is the ag property at least 40 acres:** Yes.
- **Does the qualified person who is actively farming claim another ag homestead in MN:** No.
- **Does the qualified person who is actively farming live within 4 cities/townships of the property:** Yes.

Since all requirements have been met, parcel 4 qualifies for special agricultural homestead.

Now that special agricultural homestead has been established on the established main parcel (parcel 4), we can review parcel 5 for special agricultural homestead linking. One thing to note: we are linking from the established parcel, not the residence of the farmer. Using the checklist, all the requirements must be met for parcel 5.

- ✓ The non-contiguous parcel is located within 4 cities/townships of the residence of the farmer.
- ✓ The non-contiguous parcel is owned by the same owner as the established parcel.
- ✓ The non-contiguous parcel is classified as agricultural.
- ✓ The non-contiguous parcel is at least 40 acres in size.
- ✓ The non-contiguous parcel is being farmed by a qualified person.
- ✓ Neither the farmer nor their spouse is claiming another agricultural homestead in MN.
  - Note, this requirement is only for entity owned property because the farmer will receive the homestead.

The requirements for special agricultural homestead linking have been met, therefore the homestead can be linked from parcel 4 to parcel 5. Joe, the active farmer would receive the homestead.

Two qualified persons of the LLLP receive separate full homesteads.

## Special Agricultural Homestead

## Examples of Special Agricultural Homestead Scenarios

1. Kirk is too elderly to live alone on his farm so he purchases a nice, maintenance-free condo in the city. The farm consists of a house and garage along with several outbuildings and 400 tilled acres. His son, Michael, farms his father's land. Michael and his wife, Catherine, also own/occupy/farm their own property that is located within 4 cities/townships of his father's farm. Can homestead be granted on both properties?

**Kirk's Farm**

- Who owns the property? **Answer:** Kirk, a natural person.
- Who occupies the property? **Answer:** No one.
- Is the property leased to an authorized entity from the owner who is a qualified person in the authorized entity? **Answer:** No.
- Who farms the property? **Answer:** Michael, Kirk's son.

Therefore, Kirk may be granted a special ag homestead under M.S. [273.124, subdivision 14\(b\), clause \(i\)](#), in Kirk's name since his son, Michael, is farming the property.

**Michael's Farm**

Michael qualifies for a regular, owner-occupied ag homestead on the farm that he owns, occupies, and farms with his wife.

2. Dan lives in town on a residential parcel of property. He also works in town. Dan's son, McGwire occupies his father's farm. McGwire also owns his own land that he farms. It is within 4 cities/townships of the farm that he occupies. Can McGwire receive ag homestead on both the farm that he occupies and his farm that he owns?

**Answer:** No, but he can maximize his homestead benefits by receiving a **residential** relative homestead on the HGA that he occupies on his father's farm. Since McGwire farms his father's property, Dan can receive a special agricultural homestead, in his own name on his ag land. McGwire can then qualify for a special ag homestead on his own ag property that he farms on his own behalf.

If McGwire claimed an **agricultural** relative homestead on his father's farm, he would not be able to receive a special ag homestead on his own land since he would already have an agricultural homestead (an ag relative homestead on his father's property).

## Special Agricultural Homestead

3. Bob's Family Farm Partnership owns a 90-acre farm. Bob is a partner and lives on the farm. He is actively engaged in farming the land on behalf of the entity and he is a Minnesota resident. Does Bob qualify for homestead?
- Who owns the property? **Answer:** Bob's Family Farm Partnership (an authorized entity).
  - Is the property occupied by a qualified person of the authorized entity that owns the land? **Answer:** Yes. Bob is a partner (qualified person) of Bob's Family Farm Partnership (authorized entity).
  - Is the qualified person actively engaged in farming the ag property on behalf of the authorized entity? **Answer:** Yes. Bob farms on behalf of the family farm partnership of which he is a member.
  - Is the qualified person who is actively engaged in farming a Minnesota resident? **Answer:** Yes. Bob is the qualified person who is actively engaged in farming the property on behalf of the authorized entity (Bob's Family Farm Partnership) and is a Minnesota resident.

Bob qualifies for homestead under M.S. [273.124, subdivision 8\(a\)](#).

4. Fred, a widower, lives in the city of Rockville and receives a residential homestead. He also owns 2 agricultural parcels in Rockville. Parcel #1 consists of 80 acres, of which 69 are actively farmed by Fred. The remaining 11 acres are not farmed. Parcel #2 is contiguous to parcel #1 and consists of 12 acres, all of which are farmed. Fred operates a large hog operation on this parcel. Fred is a Minnesota resident. Does Fred qualify for an actively farming homestead?
- Who owns the property? **Answer:** Fred, a natural person.
  - Is the property occupied by the owner? **Answer:** No.
  - Does a qualifying relative occupy the property? **Answer:** No.
  - Is the agricultural property leased to an authorized entity from the owner who is a qualified person in the authorized entity? **Answer:** No.
  - Is the owner, owner's spouse or child of the owner or owner's spouse actively farming the ag property either on their own behalf or on behalf of the authorized entity of which they are a qualified person? **Answer:** Yes. Fred farms the land on his own behalf.

Special Agricultural Homestead

- Are the other requirements met?
  - Is the property at least 40 acres? **Answer:** Yes, the property consists of 2 contiguous parcels which total 92 acres.
  - Are both the owner and the active farmer Minnesota residents? **Answer:** Yes, Fred (owner and active farmer) is a Minnesota resident.
  - Does the owner or owner's spouse claim another ag homestead in Minnesota? **Answer:** No, Fred has a **residential** homestead in Rockville.
  - Does the owner or the active farmer live more than 4 cities/townships from the ag property? **Answer:** No, Fred lives and farms within the Rockville city limits.

Fred may be granted a special agricultural homestead in his name on the agricultural property under M.S. [273.124, subdivision 14\(b\), clause \(i\)](#).

5. John Jingle and his son Jacob Jingle own a 60-acre farm together. The Jingles both live in town (within 4 townships) and each claim their own separate residential homesteads with their wives. Both Jingles actively farm the 60-acre farm. Neither the father, nor the son, claims another agricultural homestead in Minnesota. Both John and Jacob are Minnesota residents.

- Who owns the property? **Answer:** John and Jacob Jingle, natural people.
- Is the property occupied by the owner? **Answer:** No, neither owner occupies the property.
- Does a qualifying relative occupy the property? **Answer:** No.
- Is the agricultural property leased to an authorized entity from the owner who is a qualified person in the authorized entity? **Answer:** No.
- Is the owner, owner's spouse or child of the owner or owner's spouse actively farming the ag property either on their own behalf or on behalf of an authorized entity of which they are a qualified person? **Answer:** Yes, both owners actively farm the property on their own behalf.
- Are the other requirements met? **Answer:** Yes. Property is more than the required 40 acres; both owners/active farmers are Minnesota residents; neither the owners/farmers nor their spouses claim other agricultural homesteads in Minnesota; and all live within 4 townships of the property.

The property qualifies for a special ag homestead under M.S. [273.124, subdivision 14\(b\), clause \(i\)](#). Each person may be granted a 50% special ag homestead in their own names.

Special Agricultural Homestead

6. The Stone Family Farm Partnership consists of a mother, father, son, and daughter. The Stone Family Farm Partnership owns a 350-acre farm. The daughter and her husband farm the land held by the partnership but do so through a family farm corporation in which they are the only shareholders. No one lives on the farm. The daughter and son-in-law live in a residential property that is within four townships of the farm. All are Minnesota residents.

- Who owns the property? **Answer:** Stone Family Farm Partnership, an authorized entity.
- Is the property occupied by a qualified person of the authorized entity that owns the land? **Answer:** No, the property is not occupied.
- Is a qualified person of the authorized entity **that owns** the property actively farming the property **on behalf of the owning** authorized entity? **Answer:** No.
- Is the active farmer a member of both the farming and owning entity? **Answer:** Yes.
- Are both entities made up of more than 50% qualifying relatives? **Answer:** Yes.
- Are the other requirements met? **Answer:** Yes. Property is more than the required 40 acres; both owners/active farmers are Minnesota residents; neither the owners/farmers nor their spouses claim other agricultural homesteads in Minnesota; and all live within 4 townships of the property.

This property is eligible for homestead because while the operating and owning entities are different, the daughter is a member of both the Stone Family Farm Partnership (the owning entity) and her own entity (the operating entity).

7. Farm #1 is owned by Porky's Hog Farms, Inc., a family farm corporation. Aaron and Glen Porky are each 50% shareholders in the corporation. Farm #1 is occupied by Aaron, who is a Minnesota resident. Glen lives in South Dakota and is a South Dakota resident. Farm #1 is operated by Porky's Hog Farms, Inc. It consists of 31 acres. Farm #2 is owned jointly by Aaron and Glen Porky as individuals. It is leased to and operated by Porky's Hog Farms, Inc. It consists of 779 acres and does not contain a residence. Both farms are located in the same township but are not contiguous to each other.

**Farm #1**

- Who owns the property? **Answer:** Porky's Hog Farms, Inc.
- Is the property occupied by a qualified person of the authorized entity that owns the land? **Answer:** Yes. Aaron Porky occupies Farm #1. He is a shareholder (qualified person) of Porky's Hog Farms, Inc.

Special Agricultural Homestead

- Is the qualified person actively engaged in farming the ag property on behalf of the authorized entity? **Answer:** Yes. Aaron Porky is actively engaged in farming Farm #1 on behalf of the authorized entity.
- Is the qualified person who is actively engaged in farming a Minnesota resident? **Answer:** Yes. Aaron Porky is a Minnesota resident.

Farm #1 should be granted homestead in Aaron Porky's name pursuant to [section 273.124, sub. 8 \(a\) and \(b\)](#). There is no 40-acre requirement for this specific type of special ag homestead situation.

**Farm #2**

- Who owns the property? **Answer:** Aaron and Glen Porky jointly as individuals.
- Is the property occupied by the owner? **Answer:** No.
- Does a qualifying relative occupy the property? **Answer:** No.
- Is the agricultural property leased to an authorized entity from the owner who is a qualified person in the authorized entity? **Answer:** Yes, The property is leased to and operated by Porky's Hog Farms, Inc. Aaron and Glen are qualified persons of this operating entity.
- Are all of the other requirements met? **Answer:** No. Although the property is more than 40 acres, and it is located in the same township as Farm #1, the property does not qualify for special agricultural homestead because Aaron, the active farmer, is already claiming another agricultural homestead on Farm 1. Glen, is not actively farming and is not a MN resident, therefore you cannot establish special agricultural homestead under Glen either.
- Since an agricultural homestead cannot be established on farm 2, the assessor's next step would be to review the two farms for linking. In this case, the assessor would not be able to link farm 1 and farm 2 because the ownership of the two farms is different.
  - Note: the assessor could look into ag value tier linking in this situation, if these farms were to qualify for value tier linking the assessor would only be linking the classification rate and not the homestead. There is more information about value tier linking towards the beginning of this module.

Special Agricultural Homestead

8. Widow White has agricultural land in a revocable trust of which she is the grantor (Farm #1). She lives on Farm #1. Adjacent to Farm #1 is a farm that is owned in a fee simple arrangement by Widow White (Farm #2). Sammy White, the widow's son, farms both Farm #1 and Farm #2. Sammy owns and lives on his own farm (Farm #3) which he also farms. All of the properties are within four townships and/or cities from each other and each is larger than 40 acres in size. Everyone is a Minnesota resident.

**Farm #1**

- Who owns Farm #1? **Answer:** Widow White's revocable trust. Widow White is the grantor of the trust.
- Does the grantor or surviving spouse of the grantor occupy the property? **Answer:** Yes.

Participation level is not a factor in this scenario. Since Widow White is a resident of Minnesota and she lives on the property, she qualifies for an owner-occupied homestead.

In addition, since Widow White is the grantor of the trust on Farm #1 and owns Farm #2 individually, she may link her homestead to Farm #2. Again, it does not matter who farms the property in this case.

**Farm #3**

- Who owns Farm #3? **Answer:** Sammy White, a natural person.
- Is the property occupied by the owner? **Answer:** Yes.

Participation level is not a factor in this scenario. As long as Sammy is a Minnesota resident, he would qualify for an owner-occupied homestead on Farm #3.

9. Four Brothers Family Farm Corporation owns and farms property located in Whiskey Township. There are four shareholders (Jim, Johnny, Jack, and Jose). All of the shareholders are Minnesota residents.

The corporation owns and farms four, 600-acre parcels (Parcels #1, #2, #3, & #4). Each parcel is valued by the assessor at \$600,000. Jim lives on parcel #1. Johnny, Jack, and Jose each live in their own residential property (and receive residential homesteads) in Whiskey Junction, a small town that is within four townships of the corporately owned land.

How should the homesteads be structured?



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**Special Agricultural Homestead**

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**Parcel #1**

- Who owns the Parcel #1? **Answer:** Four Brothers FFC.
- Who lives on Parcel #1? **Answer:** Jim, a shareholder (qualified person) of Four Brothers FFC (an authorized entity).
- Who farms Parcel #1? **Answer:** Jim. Therefore, Jim receives a Special Ag Homestead (actively engaged – someone occupies) in his name on behalf of the FFC for parcel #1.

**Parcel #2**

- Who owns Parcel #2? **Answer:** Four Brothers FFC.
- Who lives on Parcel #2? **Answer:** No one. Johnny lives on a residential parcel in Whiskey Junction where he receives a residential homestead in his name.
- Who farms Parcel #2? **Answer:** Johnny farms the parcel on behalf of Four Brothers FFC. Therefore, Johnny receives a Special Ag Homestead (Actively Farming – no one occupies) in his name on behalf of the FFC for parcel #2.

**Parcel #3**

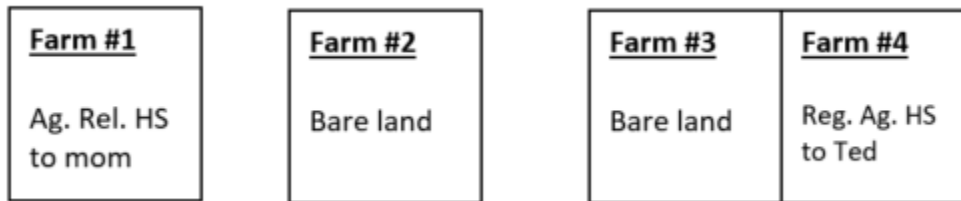
- Who owns Parcel #3? **Answer:** Four Brothers FFC.
- Who lives on Parcel #3? **Answer:** No one. Jack lives on a residential parcel in Whiskey Junction where he receives a residential homestead in his name.
- Who farms Parcel #3? **Answer:** Jack farms the parcel on behalf of Four Brothers FFC. Therefore, Jack receives a Special Ag Homestead (Actively Farming – no one occupies) in his name on behalf of the FFC for parcel #3.

**Parcel #4**

- Who owns Parcel #4? **Answer:** Four Brothers FFC.
- Who lives on Parcel #4? **Answer:** No one. Jose lives on a residential parcel in Whiskey Junction where he receives a residential homestead in his name.
- Who farms Parcel #3? **Answer:** Jose farms the parcel on behalf of Four Brothers FFC. Therefore, Jose receives a Special Ag Homestead (Actively Farming – no one occupies) in his name on behalf of the FFC for parcel #4.

Special Agricultural Homestead

10. Mother Rose has two sons, Robert and Ted. Mother Rose lives on Farm #1, which is owned by Robert but farmed by Ted. Rose currently receives an agricultural relative homestead on Farm #1. Farm #2 is bare land that is owned by Rose who retains a life estate and Ted who has a remainder man interest. Ted farms Farm #2. Farm #3 has the same ownership arrangement and features as Farm #2. Farm #4 is contiguous to Farm #3 and is owned, occupied and farmed by Ted.



	Farm 1	Farm 2	Farm 3	Farm 4
Who Owns?	Robert	Rose & Ted	Rose & Ted	Ted
Who Occupies?	Rose	No one	No one	Ted
Who Operates?	Ted	Ted	Ted	Ted

Can Ted receive homestead on the contiguous Farm #3 as well as Farm #2 since he has a remainder man interest on both?

**Answer:** No. Since Mother Rose has a life estate, she is considered the owner for homestead purposes, even if she is not living on either Farm #2 or Farm #3.

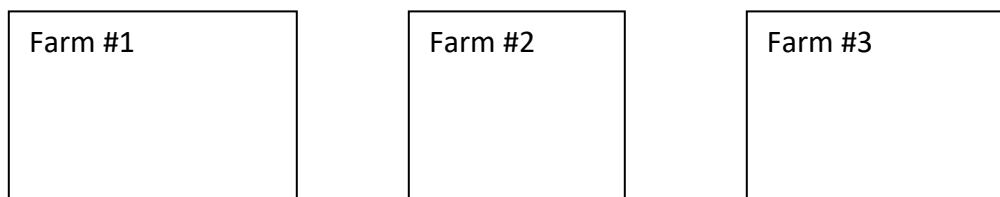
Would Farm #2 and Farm #3 be eligible for a special ag homestead?

**Answer:** Not under the current ownership/occupancy/farming situation. Since Mother Rose already receives an agricultural relative homestead on Farm #1, she is not eligible to receive a special ag homestead on Farms #2 and #3. In addition, since Ted already receives a regular ag homestead on Farm #4, he is not eligible to receive a special ag homestead on Farms #2 and #3.

Special Agricultural Homestead

11. Ward and June recently retired from farming and have moved to town. They receive a residential homestead on the residential property they occupy. Ward owns two farms that are titled in his name only. Wally, Ward’s son, is the sole shareholder in Wally’s Family Farm Corporation. Wally occupies Farm #1 that Ward owns and actively farms it on behalf of his corporation. Ward also owns another farm (Farm #2) that is leased to his second son’s entity – Beaver’s Family Farm Corporation. Beaver is the sole shareholder in his corporation. Beaver also owns and occupies his own farm with his wife Penny (Farm #3). What can qualify for homestead?

It may be helpful to show this visually:



	Farm 1	Farm 2	Farm 3
Who Owns?	Ward	Ward	Beaver’s FFC
Who Occupies?	Wally	No one	Beaver & Penny
Who Operates?	Wally’s FFC	Beaver’s FFC	Beaver’s FFC

**Farm #1**

Wally can qualify for an agricultural relative homestead since he occupies the property even if he is farming it on behalf of Wally’s FFC.

**Farm #2**

Beaver CANNOT qualify for a special ag homestead in this case even if he is farming it on behalf of Beaver’s FFC because he already has his own special agricultural homestead on Farm #3. The parcels cannot be linked, nor can Beaver’s homestead be extended because the ownership entities are different. If Farm 2 were contiguous to Farm 1, it could be part of Farm 1’s agricultural relative homestead (because it is a contiguous land mass under the same ownership, and it is occupied by a qualifying relative).

**Farm #3**

Beaver can receive a special ag homestead on this property because he is a qualified person (shareholder) of the authorized entity (Beaver’s FFC) that owns the land, he occupies the property, and he is actively engaged in farming the property on behalf of that entity.

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**Special Agricultural Homestead**

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12. Woody individually owns a quarter-section of land (160 acres). He does not occupy the property. On the north 50 acres, he grazes his cattle. The remaining 110 acres is tilled and rented to Cliff. Can Woody qualify for homestead on the entire 160 acres?

**Answer:** No. Since Woody is not farming over 50% of the class 2a land (80+ acres) himself, he does not qualify for a special ag homestead.

13. Two unrelated women, Paris and Nicole, purchased a 640-acre farm in rural Minnesota. The building site of this farm (house, garage, and 5 acres) was split off and is owned and occupied by Nicole and her husband. The remaining 635 acres were put into a partnership (Divas Partnership) consisting solely of Paris and Nicole. Both Paris and Nicole are actively farming this property on behalf of the partnership. Paris and her husband solely own and occupy another 160-acre farm that is located within four cities/townships of the partnership-owned land. Can the partnership property be homesteaded?

- Who owns the property? **Answer:** Divas Partnership, an authorized entity.
- Who lives on the property? **Answer:** No one occupies.
- Who farms the property? **Answer:** Nicole, a qualified person of the authorized entity.

Nicole and her husband should receive a residential homestead on the house, garage, and 5 acres that they solely own and occupy. Since the partnership land is owned by an authorized entity and a qualified person (Nicole) is actively farming the property, Nicole may receive a special ag homestead on the partnership land, provided she meets all of the other requirements. However, Paris could not qualify for a special ag homestead on this property because she and her husband already have a regular ag homestead on the 160-acre farm that they own and occupy.

Special Agricultural Homestead

**Glossary of Agricultural Terms**

**actively engaged in farming** - participation on the farm on a regular and substantial basis; someone lives on the farm. The person who is actively engaged in farming must be a Minnesota resident.

**actively farming** - participation in the day-to-day decision making, labor, administration, and management of the farm, as well as assuming all or a portion of the financial risks and sharing in any profits or losses; generally no one lives on the farm. The person who is actively farming must be a Minnesota resident.

**agricultural land** – for purposes of special agricultural homesteads, agricultural land is real estate used for farming (production for sale of an agricultural product). Agricultural land means contiguous acreage of 10 acres or more, used during the preceding year for agricultural purposes. “Agricultural purposes” means the raising or cultivation of agricultural products for sale (see M.S. [273.13, subdivision 23](#)). Agricultural classification for property shall be determined excluding the house, garage, and immediately surrounding one acre of land, and shall not be based upon the market value of any residential structures on the parcel or contiguous parcels under the same ownership. Property enrolled in CRP/RIM/CREP or other similar state or federal conservation programs may be classified as 2a agricultural land but is not considered farmed land for the purposes of special agricultural homesteads.

**agricultural homestead** - agricultural land that is occupied and used as a homestead by its owner, who must be a Minnesota resident, is an agricultural homestead (M.S. [273.124, subdivision 1\(a\)](#)).

**authorized entity** - can be a family farm corporation, joint family farm venture, limited liability company or partnership operating a family farm (M.S. [273.124, subdivision 8\(a\)](#)). This is limited to entities with 12 or fewer members, shareholders, or partners. The following entities would be eligible for homestead treatment:

- authorized farm limited liability company (operating a family farm)
- authorized farm partnership (operating a family farm)
- family farm
- family farm corporation
- family farm limited liability company (operating a family farm)
- family farm partnership
- family farm trust
- general partnership (operating a family farm)

**authorized farm limited liability company** - a limited liability company that has:

- no more than five members who are all natural persons or estates;
- only one class of membership interests;

Special Agricultural Homestead

- no more than 20 percent of its gross receipts derived from rents, royalties, dividends, interest, and annuities;
- members who own at least 51 percent of the company either reside on the farm or are actively engaged in farming it;
- no interest in or ownership of more than 1,500 acres of agricultural land, either directly or indirectly;
- none of its members are members in other authorized farm limited liability companies if combined would directly or indirectly own more than 1,500 acres; AND
- members may not transfer their interests to ineligible persons (M.S. [500.24, subdivision 2\(m\)](#)).

**authorized farm partnership** - a limited partnership formed for the purpose of farming and owning agricultural land, as documented on a certificate from the Secretary of State or on a document registered with the county recorder, and that has:

- no more than five partners who are all natural persons or estates;
- no more than 20 percent of its gross receipts derived from rents, royalties, dividends, interest, and annuities;
- its general partners own at least 51 percent of the interest in the land assets of the partnership and either reside on the farm or are actively engaged in farming not more than 1,500 acres as a general partner in an authorized limited partnership;
- its limited partners do not participate in the business of the limited partnership including operating, managing, or directing management of farming operations;
- no interest in or ownership of more than 1,500 acres of agricultural land, directly or indirectly; AND
- none of the limited partners are limited partners in other authorized farm partnerships that if combined would directly or indirectly own more than 1,500 acres (M.S. [500.24, subdivision 2\(k\)](#)).

**beneficiaries** - anyone who received any kind of benefit from a trust is a beneficiary. For example, if you had the right to live on property held under a trust, you would be a beneficiary.

**corporation** - an artificial person or legal entity created under the laws of a state, having an existence separate and apart from that of its members or owners, vested with the capacity of continuous succession (Black's Law Dictionary, 5<sup>th</sup> Ed., West, 1979). Characteristics of a corporation include: (1) continuity of life, without interruption as a result of the death or withdrawal of the members; (2) centralized management by representatives selected by the members; (3) limited liability for the organization's debts, without recourse to the members; (4) free transferability of interests; and (5) the holding of title to property by the organization itself (*Morrissey v. Commissioner*, 298 U.S. 344, 1935). The corporate name must include the word (or abbreviation): "corporation," "incorporated," or "limited," or the word "company" or the abbreviation "Co." but may not contain "and company," or "& co." or a variation (M.S.

Special Agricultural Homestead

302A.115). Articles of incorporation are effective and corporate existence begins when the articles of incorporation are filed with the Secretary of State (M.S. [302A.153](#)).

**family farm** - an unincorporated farming unit which has one or more owners residing on the farm or who are actively engaged in farming (M.S. [500.24, subdivision 2\(b\)](#)).

**family farm corporation** - a corporation founded for farming and owning agricultural land that has:

- a majority of stock held by and a majority of the stockholders are persons (or their spouse) or current beneficiaries of family farm trusts who own stock in the family farm corporation and the persons and the beneficiaries are related to each other within the third degree of kindred;
- at least one of the related persons is residing on or actively operating the farm; AND
- no stockholders who are corporations (M.S. [500.24, subdivision 2\(c\)](#)).

*NOTE: Transfers of shares to persons related within the third degree of kindred, or to a trust of which the related recipient is a current beneficiary, will not cause a disqualification.*

**family farm limited liability company** - a limited liability company founded for the purpose of farming and owning agricultural land that has:

- a majority of its members are persons or current beneficiaries of family farm trusts who own stock in the family farm limited liability company and the persons and the current beneficiaries are related to each other within the third degree of kindred;
- at least one of the related persons is actively operating the farm; AND
- no members who are corporations or limited liability companies (M.S. [500.24, subdivision 2\(l\)](#)).

*NOTE: Transfers of membership interests to persons related within the third degree of kindred, or to a trust of which the related recipient is a current beneficiary, will not cause a disqualification.*

**family farm partnership** - a limited partnership formed for the purpose of farming and owning agricultural land that has:

- a majority of the partnership interests held by persons or current beneficiaries of family farm trusts who own stock in the family farm partnership and the persons or current beneficiaries are related to each other within the third degree of kindred; AND
- a majority of its partners are persons or current beneficiaries of family farm trusts who own stock in the family farm partnership and the persons or current beneficiaries are related to each other within the third degree of kindred; AND
- at least one of the related persons is residing on or actively operating the farm, or has owned the agricultural land for at least five years prior to its transfer to the limited partnership; AND
- no partners who are corporations (M.S. [500.24, subdivision 2\(j\)](#)).

Special Agricultural Homestead

*NOTE: Transfers of partnership interests to persons related within the third degree of kindred, or to a trust of which the related recipient is a current beneficiary, will not cause a disqualification.*

**family farm trust** - any one of the following may qualify as a family farm trust:

1. A trust in which:
  - a. a majority of current beneficiaries are persons (or spouses of persons) who are related to each other within the third degree of kindred;
  - b. all current beneficiaries are persons, nonprofit corporations or trusts organized for religious, charitable or scientific purposes; and
  - c. at least one of the family member current beneficiaries is residing on or actively operating the farm.
  
2. A charitable remainder trust.
  
3. A charitable lead trust that has:
  - a. a lead period that does not exceed 10 years; and
  - b. a majority of the remainder beneficiaries are related to the grantor within the third degree of kindred (M.S. [500.24, subdivision 2\(d\)](#)).

**farmer** - a natural person who regularly participates in physical labor or operations management in the person's farming operation and files "Schedule F" as part of the person's annual Form 1040 filing with the United States Internal Revenue Service (M.S. [500.24 subdivision 2\(n\)](#)).

**farming** - is defined in Minnesota law as the production for sale of agricultural products under M.S. [273.13, subdivision 23](#).

**general partnership** - an association of two or more persons to conduct a business for profit as co-owners (whether or not the persons intend to form a partnership) in which:

- "persons" includes individuals, corporations, estates, trusts, and any other type of legal or commercial entity;
- sharing gross profits does not by itself establish a partnership; and
- a person who receives a share of the profits of a business is presumed to be a partner in that business unless the profits were received in payment for goods or services, as rent, as repayment of a debt or interest, as an annuity, or on account of the sale of goodwill (M.S. [500.24, subdivision 3\(a\)](#); M.S. [323A.1-01\(8\), \(12\)](#); M.S. [323A.2-02\\*](#)).

*\* This definition reflects the provisions of the Minnesota Uniform Partnership Act of 1994 (i.e., M.S. chapter 23A). Partnerships governed by a predecessor statute or a comparable statute of another state may have somewhat different attributes.*



Special Agricultural Homestead

**grantor** - is defined as the person creating or establishing a testamentary, inter vivos, revocable or irrevocable trust by written instrument or through the exercise of a power of appointment (M.S. [273.124, subdivision 21](#)). For a property that is held under a trust to receive an agricultural homestead, the grantor must be a Minnesota resident and neither the grantor nor the spouse of the grantor can claim another ag homestead.

**irrevocable trust** - a trust which cannot be changed at any time.

**inter vivos trust** - see "revocable trust".

**joint family farm venture** - a means a cooperative agreement among two or more farm enterprises authorized to operate a family farm under section M.S. [500.24 \(M.S. 273.124, subdivision 8\(a\)\)](#). For homestead purposes, it can only be a combination of other entities qualifying for homestead.

**limited liability company** - an unincorporated organization created by state law that affords its members limited liability for the organization's debts and the potential to avoid income taxes at the entity level, thus combining the characteristics of a corporation and a partnership (Lloyd G. Kepple, Esq.). The name of a limited liability company must contain the words "limited liability company" or "LLC." Other words or letters may be used when the members of the company provide certain professional services including medicine, veterinary, landscaping, accountancy, engineering, or law. The name must not contain the words (or abbreviations): "corporation" or "incorporated" (M.S. [322B.12](#) and [319B.05](#)). Articles of organization are effective and limited liability company existence begins when the articles of organization are filed with the Secretary of State (M.S. [322B.175](#)).

**limited partnership** - a partnership consisting of one or more general partners, jointly and severally responsible as ordinary partners, and be whom the business is conducted, and one or more special partners, contributing in cash payments a specific sum as capital to the common stock, and who are not liable for the debts of the partnership beyond the fund so contributed (Black's Law Dictionary, 5<sup>th</sup> Ed., West, 1979). The name of a limited liability partnership must end with "Registered Limited Liability Partnership," "Limited Liability Partnership," "R.L.L.P.," "L.L.P.," "RLLP," or "LLP" (M.S. [323A.1002](#)). The partnership must file an annual registration with the Secretary of State. (M.S. [323A.1003](#)).

**owner** – defined as an individual person or multiple people who own the property (i.e. it is not owned by a business or entity).

**qualified person** - can be a:

- member in an authorized entity;
- shareholder in an authorized entity; OR
- partner in an authorized entity.

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**Special Agricultural Homestead**

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**qualifying relative or surviving relative** – must be a Minnesota resident; definition depends on the type of homestead:

- **Residential property and occupied agricultural property:** a qualified relative of the owner or grantor can be a parent, stepparent, child, stepchild, grandparent, grandchild, sibling, aunt/uncle, or niece/nephew. The relationship may be by blood or by marriage (M.S. 273.124, subdivision 1(c) and (d)).
- **Unoccupied agricultural property:** a qualified relative can be a grandchild, child, sibling, or parent of the owner or grantor (or of the spouse of the owner or grantor) of the agricultural property (M.S. 273.124, subdivision 14(b)(i)(2)).

**revocable trust** - a trust created to handle the grantor's assets, often called a "living trust" or "inter vivos trust," which only becomes irrevocable on the death of the grantor.

**third degree of kindred** - for the purposes of M.S. 500.24, a person's first degree of kin includes parents and children; that person's kindred of the second degree include grandparents, grandchildren, and siblings; and that person's kindred of the third degree includes aunts, uncles, nieces, nephews, and great-grandparents (23 Am.Jur.2d, Descent and Distribution, section 55).

**trust** - a fiduciary relationship under which one party holds property for the benefit of another party.

**trustee** - means the party that holds property rights for the benefit of another party through a trust.

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## Special Provisions

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### Special Provisions

As discussed previously in this module, a property must be occupied by the owner or a qualifying relative in order to receive homestead benefits. However there are several special provisions in law that allow for exceptions to those rules. These exceptions are outlined on the following pages.

#### Life Estates

When a life estate is established on a residential or agricultural property, it gives the grantor/holder of the life estate the right to occupy and use the property until their death. When a life estate has been established, the person holding the life estate is considered as the **owner for homestead purposes**, rather than the person listed on the deed. A qualifying relative of the life estate holder may also qualify for a relative homestead. Upon the death of the life estate grantor/holder, the ownership transfers to the fee holder or the person with the remainder interest, therefore, homestead status should be removed as soon as the county is notified of the death. The county is not required to wait for the life estate to be removed from the property records to update the homestead status.

For agricultural property, a life estate may be for the house, garage, and first acre (HGA) or it may be for the entire farm. The type of homestead that will be granted, either residential on the HGA or agricultural on the entire farm, will depend on the terms of the life estate.

When a life estate is established on unoccupied agricultural property, the holder of the life estate, not the fee owner of the property or the person with the remainder interest in the property, has the ownership rights over the property. Therefore, for the property to qualify for special agricultural homestead either the holder of the life estate must be actively farming the property or a relative of the holder of the life estate must be actively farming.

If the terms of the life estate do not specify that the person is allowed to occupy the property until their death, or if it specifies that the person may occupy for a specific period of years, it is not a true life estate. This is likely an “estate in years.” It is the department’s opinion that an estate in years is not enough of an ownership interest to grant a property a homestead.

#### Licensed Child Care

If a single-family home, duplex, or triplex classified as either residential homestead or agricultural homestead is also used to provide **licensed child care**, the portion of the property used for licensed child care must be classified as a part of the homestead property.

## Special Provisions

**Homestead of Owner in Nursing Home, Boarding Care, or Elderly Assisted Living Care Facility**

An assessor cannot deny homestead, in whole or in part, if:

1. In the case of a property owner who is not married, the owner is absent due to residence in a nursing home, boarding care facility, or an elderly assisted living facility, as defined in [section 273.13, subdivision 25a](#), and the property is not otherwise occupied; or
2. In the case of a property owner who is married, the owner or owner's spouse or both are absent due to residence in a nursing home, boarding care facility, or an elderly assisted living facility, as defined in [section 273.13, subdivision 25a](#), and the property is not otherwise occupied or is occupied only by the owner's spouse.

If the owner of the property is required by the Department of Human Services to rent out the property in order to pay for the cost of care received in a nursing home, the homestead should remain on the property.

Minnesota Statutes, [section 273.13, subdivision 25a](#), defines elderly assisted living facility property to mean “*residential real estate containing more than one unit held for use by the tenants or lessees as a residence for periods of 30 days or more, along with community rooms, lounges, activity rooms, and related facilities, designed to meet the housing, health, and financial security needs of the elderly. The real estate may be owned by an individual, partnership, limited partnership, for-profit corporation or nonprofit corporation exempt from federal income taxation under United States Code, title 26, section 501(c)(3) or related sections.*”

*An admission or initiation fee may be required of tenants. Monthly charges may include charges for the residential unit, meals, housekeeping, utilities, social programs, a health care alert system, or any combination of them. On-site health care may be provided by in-house staff or an outside health care provider...”*

Note that the above exception for a nursing home solely applies to the property **owner** or owner's spouse. A qualifying relative receiving relative homestead **would not** be able to retain the homestead if they stopped occupying the property due to residence in a nursing home, boarding care facility, or assisted living facility.

**Example:** Parent occupies their child's property and receives relative homestead. Child receives their own homestead on a different property. Parent leaves the property to reside at a nursing home for a few years.

**Question:** Should the property continue to receive relative homestead?

**Discussion:** No. The exception allowing an occupant to retain homestead after moving into a nursing home solely applies to the property **owner or their spouse**. In this

Special Provisions

situation, the parent who was occupying the property no longer does so, and therefore the homestead should be removed.

Primary Statutory Reference: [273.124, paragraph \(f\)](#); [273.13, subdivision 25a](#)

**Homesteads for Property Requiring a Relative Co-Owner for Financing Purposes**

*Note: This section predates relative homesteads and therefore has more limited applications under current statute.* An individual who is purchasing a property and is required by the terms of the financing agreement to have a relative shown on the deed as a co-owner is entitled to receive a full homestead benefit. This provision only applies in the following situations:

1. A single person or married couple is purchasing a property for the first time; or
2. A person who was previously married is purchasing a property for the first time as an individual.

The related, non-occupying co-owner is not required to be a Minnesota resident for this type of homestead.

It should be noted that this type of homestead differs from a relative homestead and should not be treated as such. The owner/occupant may be eligible for property tax refund if all other qualifications are met. However, in the case of a subsequent purchase requiring a relative co-owner for financing purposes, this section does not preclude the property owner from being granted an owner-occupied and relative homestead if all qualifications for relative homestead are met.

Primary Statutory Reference: [273.124, paragraph \(g\)](#)

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## Special Provisions

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### Homestead of Property Subject to Jurisdiction of Probate Court

When a property owner dies, the natural process is that the property goes into probate where the owner's estate will be settled depending on whether the owner had a will and/or heirs to inherit the property. Once probate is settled, the ownership of the property will change and homestead status will need to be reviewed according to the new ownership. Under the Uniform Probate Code, probate proceedings must typically start **within three years of the individual's death**.

If a property is going through the probate process, we would recommend the county allow a reasonable period of time to pass before removing the homestead after the death of the property owner. The amount of time the county wants to allow for the property to go through probate should be based on county policy and practices. If the property isn't going through the probate process, the county should make a decision on whether to pull the homestead immediately or allow time for the probate process to begin.

Minnesota Statutes, [section 273.124, subdivision 1, paragraph \(h\)](#), allows a property to qualify for a relative homestead if a child of the deceased owner is occupying the property as a homestead while the property is subject to the jurisdiction of probate court. It specifies that the child shall receive a relative homestead classification to the same extent to would be entitled to if the owner (parent) were still living, until the probate is completed. For the purposes of this provision, "child" includes a relationship by blood or by marriage. This provision also allows the assessor to grant a relative homestead to minor children who are occupying a property where the owner is deceased, and the property is subject to the jurisdiction of probate court. Once the probate process is completed and the ownership changes, then the homestead status will need to be reviewed .

Primary Statutory Reference: [273.124, paragraph \(h\)](#)

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**Special Provisions**

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**Homestead of a Member of the United States Armed Forces, Peace Corps, or VISTA**

Real estate that is actually occupied and used for the purpose of a homestead by a person or by a member of that person's immediate family should remain classified as a homestead even though the person or family is absent due to the person being on active duty with the United States Armed Forces or serving as a volunteer under either the VISTA or Peace Corps programs.

The homestead must first be established before being called to active duty or prior to serving as a volunteer under these programs in order to continue receiving homestead during the person or family's absence. The owner must intend to return to the property and claim it as his/her homestead as soon as he/she is discharged or relieved from service. The property may be rented out and still retain the homestead so long as the person or family intends to return.

It should be noted that the military serviceperson or volunteer must maintain their Minnesota residency for income tax purposes in order to continue to homestead their property.

Any person who knowingly makes or submits to an assessor an affidavit or other statement that is false in any material matter to obtain or aid another in obtaining a benefit under this subdivision is guilty of a felony.

In the case of a person who is absent solely because he/she is on active duty with the United States Armed Forces, homestead benefits may be granted even if the property has not been occupied as a homestead by the person or member of the person's family (i.e. the homestead does not need to be established prior to being called away from home to active duty).

To qualify, the person who acquires the property must notify the assessor of the acquisition and of his/her absence due to military service. When the person returns from military service and occupies the property as a homestead, he/she shall notify the assessor, who will provide for an abatement of the difference between the homestead and non-homestead taxes for the current and two preceding years – not to exceed the time the person owned the property.

Primary Statutory Reference: [273.124](#); [subdivision 12](#)

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## Special Provisions

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### Property Undergoing Renovation by a Church or Non-Profit Organization

Another exception to the general “occupancy” rule is given to property that is owned by a church or a non-profit organization. Property that is not occupied as a homestead on the assessment date of January 2 will be classified as a homestead if it meets **each** of the following requirements:

1. the structure is a single family or duplex residence;
2. the property is owned by a church or an organization that is exempt from taxation under [section 501\(c\)\(3\)](#) of the IRS Code; and
3. the organization is in the process of renovating the property for use as a homestead by an individual or family whose income is no greater than 60 percent of the county or area median income, adjusted for family size, and that renovation process and conveyance for use as a homestead can reasonably be expected to be completed within 12 months after construction begins.

The church or organization must apply to the assessor for classification under this provision within 30 days of its acquisition of the property, and must provide the assessor with the information necessary for the assessor to determine whether the property qualifies.

Primary Statutory Reference: [273.124, subdivision 18](#)

### Lease-Purchase Program

Qualifying buildings and appurtenances, together with the land on which they are located, may receive homestead benefits if the following conditions are met:

1. the property is leased for up to a 5-year period by the occupant under a lease-purchase program administered by the Minnesota Housing Finance Agency (MHFA) or a Housing and Redevelopment Authority (HRA) as defined under sections 469.001-469.047;
2. the occupant’s income is no greater than 80 percent of the county or area median income, adjusted for family size;
3. the building consists of one or two dwelling units;
4. the lease agreement provides that part of the lease payment is escrowed as a non-refundable down payment on the housing;
5. the administering agency verifies the occupant’s income eligibility and certifies to the county assessor that the occupant meets the income standards; and
6. the property owner applies to the county by May 30 of **each** year.

For the purposes of the provision, “qualifying buildings and appurtenances” means a one or two unit residential building which was unoccupied, abandoned, and boarded up for at least 6 months.

Primary Statutory Reference: [273.124, subdivision 19](#)



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**Special Provisions**

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**Establishing Agricultural Homestead Flowcharts**

The flowcharts on the following three pages are an administrative tool for assessors to use when determining whether agricultural homestead can be established. They are not the only tool an assessor should rely on in determining a specific property's qualification for homestead treatment.

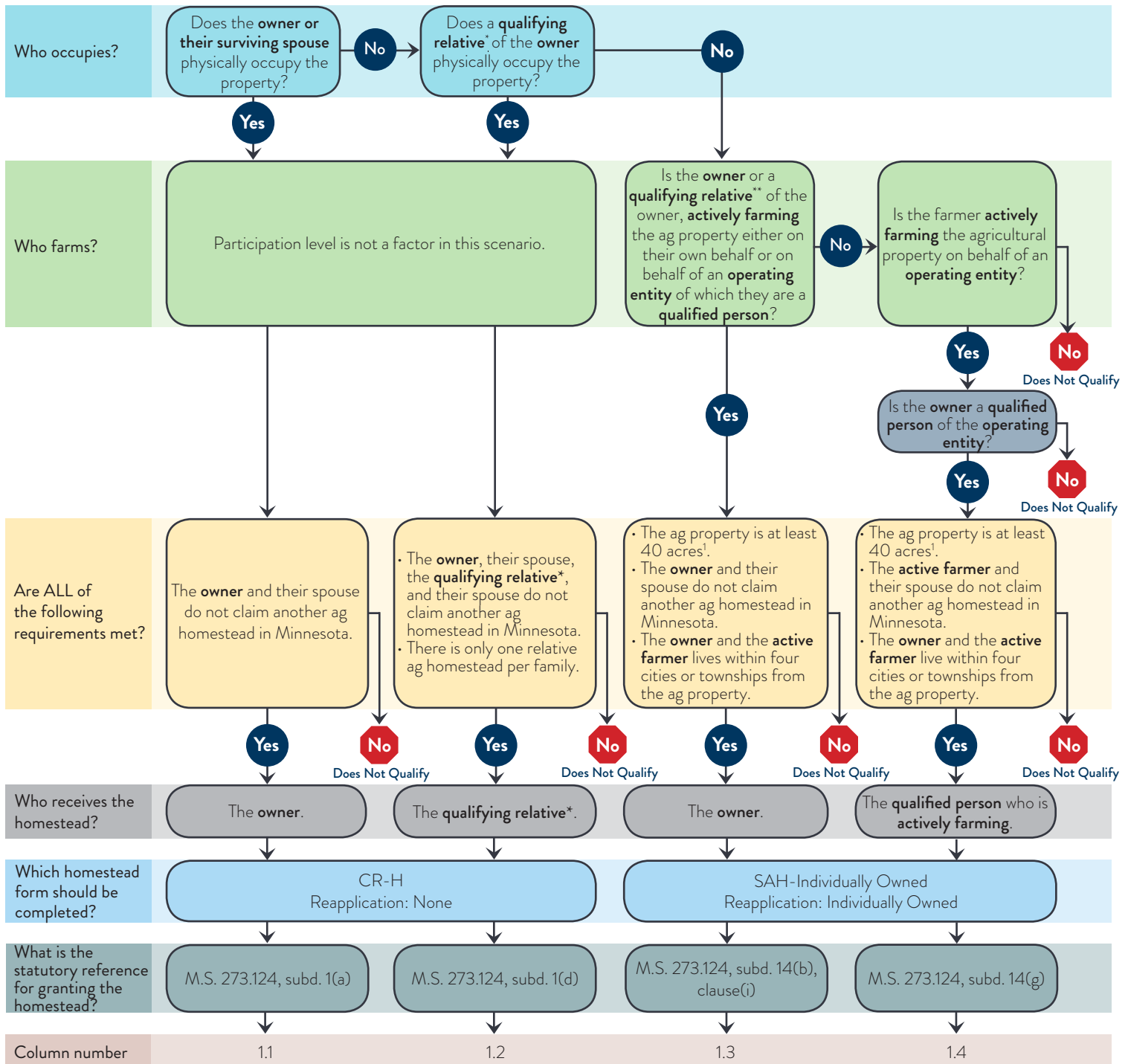
Assessors are required to classify according to use and then apply homestead to properties that meet the homestead requirements. These crucial assessment roles are strictly the responsibility of an assessor and can only be determined by an assessor.

Note: The flowcharts are only used for establishing agricultural homestead. Information regarding linking agricultural homestead can be found in the Linking Parcels for Special Agricultural Homestead section of this module.

# Establishing Individually Owned Agricultural Homestead Flowchart

Note: Terms in **bold** are defined in the glossary.

Revised July 2021



**Footnote**

**Glossary**

<sup>1</sup>The ag property is at least 40 acres, including undivided government lots and correctional 40's.

**Actively farming** - participation in the day-to-day decision making, labor, administration, and management of the farm as well as assuming all or a portion of the financial risks and sharing in any profits or losses. The person who is actively farming must be a Minnesota resident.

**Operating entity** - must meet the authorized entity requirements of M.S. 500.24 and must be operating the agricultural land. (See M.S. 273.124, sub 8(a))

**Owner** - is defined as an individual person or multiple people who own the property. An owner must be a Minnesota resident.

**Qualified person** - must be a Minnesota resident and can be a member, shareholder, or partner in an authorized entity.

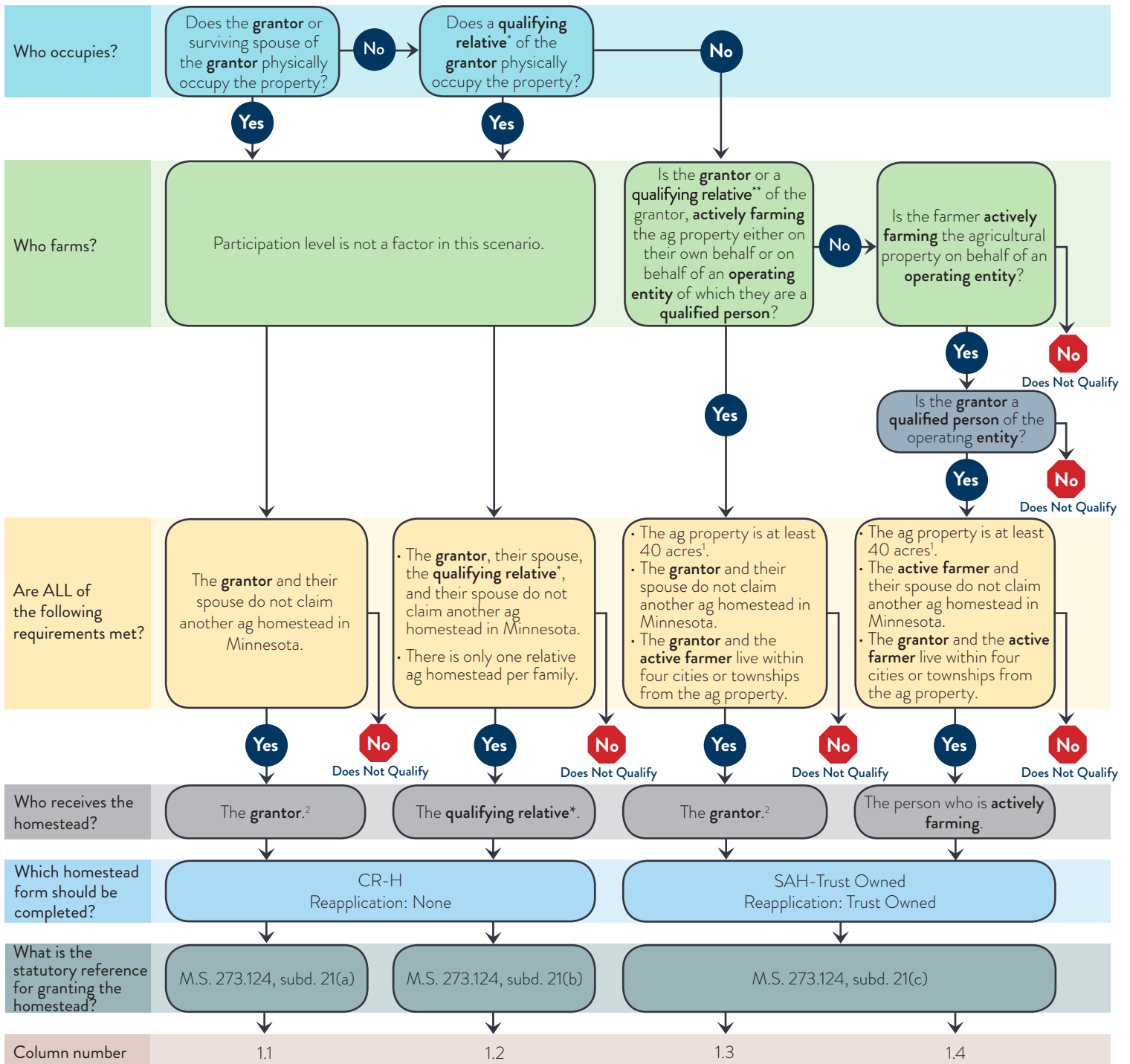
**Qualifying relative\*** - must be a Minnesota resident. For **occupied** property, a qualifying relative is a child, sibling, grandchild, parent, grandparent, aunt, uncle, nephew, or niece, by blood or marriage. (See M.S. 273.124, sub 1(d))

**Qualifying relative\*\*** - must be a Minnesota resident. For **unoccupied** property, a qualifying relative is a child, sibling, grandchild, or parents, by blood or marriage. (See M.S. 273.124, sub 14(b)(i)(2))

# Establishing Trust Owned Agricultural Homestead Flowchart

Note: Terms in **bold** are defined in the glossary.

Revised July 2021



**Footnote**

<sup>1</sup>The ag property is at least 40 acres, including undivided government lots and correctional 40's.  
<sup>2</sup>If the grantor is deceased, the property may still qualify for homestead to the benefit of the trust. The active farmer must sign the application, attesting that the requirements are factually met, but the homestead is given to the land owned by the trust.

**Glossary**

**Actively farming** - participation in the day-to-day decision making, labor, administration, and management of the farm as well as assuming all or a portion of the financial risks and sharing in any profits or losses. The person who is actively farming must be a Minnesota resident.

**Grantor** - is defined as the person creating or establishing a trust.

**Operating entity** - must meet the authorized entity requirements of M.S. 500.24 and must be operating the agricultural land. (See M.S. 273.124, subdivision 8(a).)

**Qualified person** - must be a Minnesota resident and can be a member, shareholder, or partner in an authorized entity.

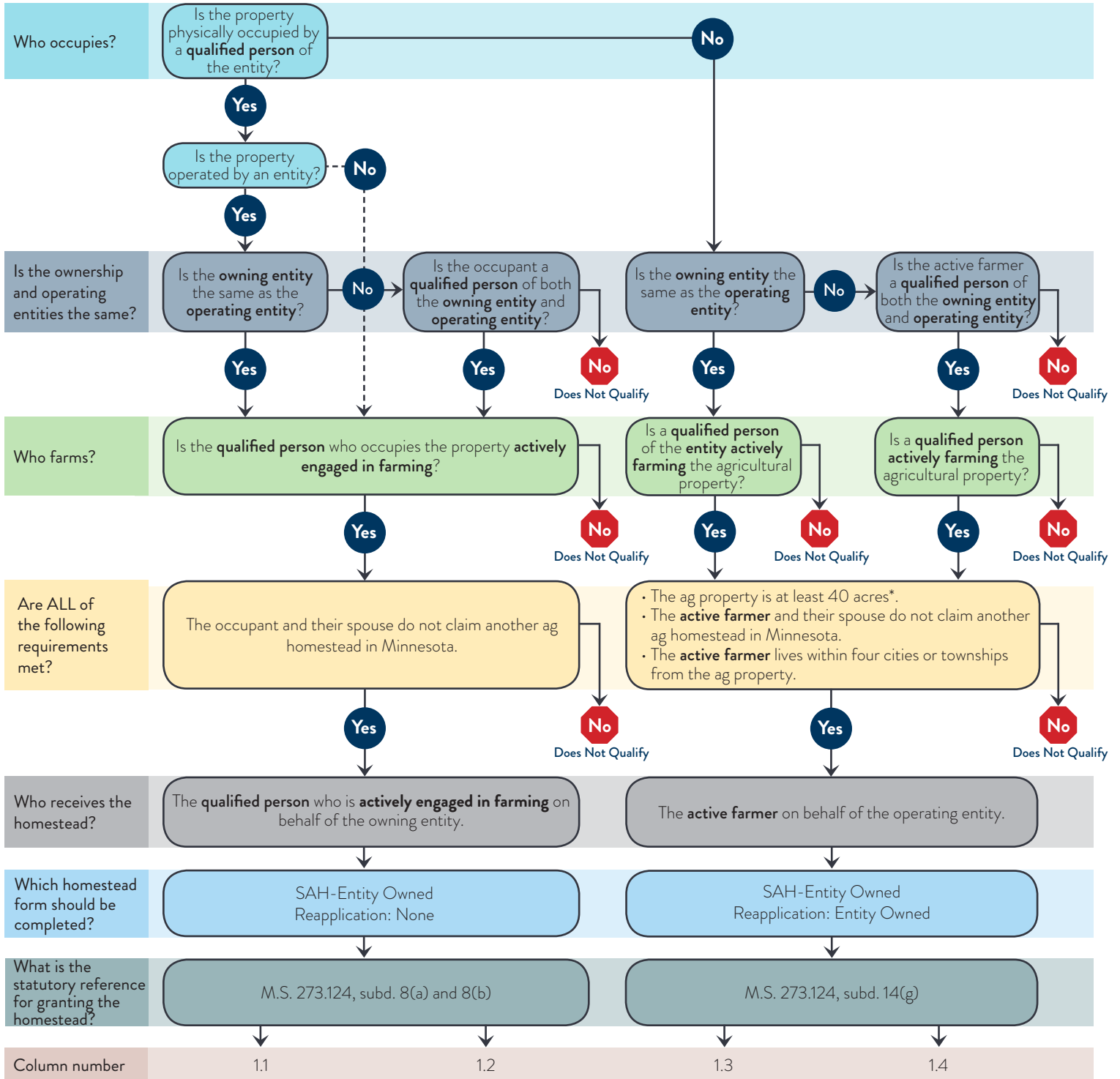
**Qualifying relative\*** - must be a Minnesota resident. For **occupied** property, a qualifying relative is a child, sibling, grandchild, parent, grandparent, aunt, uncle, nephew, or niece, by blood or marriage. (See M.S. 273.124, sub 1(d))

**Qualifying relative\*\*** - must be a Minnesota resident. For **unoccupied** property, a qualified relative is a child, sibling, grandchild, or parent, by blood or marriage. (See M.S. 273.124, sub 14(b)(i)(2)).

# Establishing Entity Owned Agricultural Homestead Flowchart

Note: Terms in **bold** are defined in the glossary.

Revised September 2019



**Footnote**

\*The ag property is at least 40 acres, including undivided government lots and correctional 40's.

**Glossary**

**Actively engaged in farming** - participation on the farm on a regular and substantial basis. The person who is actively engaged in farming must be a Minnesota resident.

**Active farmer** - participation in the day-to-day decision making, labor, administration, and management of the farm as well as assuming all or a portion of the financial risks and sharing in any profits or losses. The person who is actively farming must be a Minnesota resident.

**Owning/operating entity** - must meet the authorized entity requirements of M.S. 500.24 and must be owning and/or operating the agricultural land. (See M.S. 273.124, subdivision 8(a).)

**Qualified person** - must be a Minnesota resident and can be a member, shareholder, or partner in an authorized entity.