



# Minnesota Agricultural Land Preservation Program

Legislative Report 2016 & 2017

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March 2018

## Table of Contents

Table of Contents .....	2
Executive Summary.....	3
Introduction .....	4
Background .....	4
Overview .....	5
Program Participation .....	7
Conservation Credits and Funding .....	7
2016 and 2017 Activities.....	9
Assessment of the Public’s Awareness of Agriculture Land Preservation Program .....	10
Recommendations for Funding Levels and Legislative Action.....	10

Pursuant to Minn. Stat. § 3.197, the cost of preparing this report was approximately \$1,000.

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## Executive Summary

The Agricultural Land Preservation Policy Act of 1984 (Minnesota Statutes, Chapter 40A) provides for a statewide agricultural land preservation program consisting of:

- tools for agricultural land preservation at the local level, including guidelines for agricultural land preservation planning and official controls, voluntary “agricultural preserve” restrictive covenants, and property tax incentives for their creation;
- a program to foster awareness of agricultural land preservation and conservation issues; and
- a program of technical and financial assistance to local government.

The Minnesota Agricultural Land Preservation Program was established with the passage of the Agricultural Land Preservation Policy Act of 1984 (Minnesota Statutes, Chapter 40A). This legislation was preceded, in 1980, by legislation establishing the Metropolitan Agricultural Preserves Program (Minnesota Statutes Chapter 473H). The statewide program was largely modeled after the metropolitan program.

Within the three participating counties (Waseca, Winona and Wright), a total of 122,947 acres are protected by agricultural preserves covenants. As of 2017, the following acres are protected: 74,123 acres in Waseca County; 39,623 in Winona County; and 9,201 in Wright County. Together with the Metropolitan Agricultural Preserves Program (which had enrollment of 208,119 acres), a total of 331,066 acres are protected.

Minnesota Department of Agriculture (MDA) staff provide direct and ongoing technical support to local governments upon request, and have advised and disseminated information on a wide variety of subjects relating to rural planning issues. Since the inception of the Minnesota Agricultural Land Preservation Program, staff have worked with over one-third of Minnesota’s counties in development of agricultural land preservation plans and implementing controls.

The MDA has expanded its awareness and assistance efforts to include services aimed to improve the economic viability of farming operations. These include:

- Minnesota FarmLink – a web based tool connecting prospective farmers with retiring farmers.
- Beginning and Transitioning Farmer Resource website – a directory of programs and services offered by farm-related organizations in Minnesota, including services for all sizes and types of farming and farmers. Services range from assisting in finding land, finances, farm management planning and scholarships, legal services, networking and mentoring.
- Technical assistance on planning and zoning issues concerning diversified agricultural operations in the urban fringe areas, including issues affecting immigrant farmers.

The MDA has no recommendations for funding or legislative changes at this time.

## Introduction

The Agricultural Land Preservation Policy Act of 1984 (Minnesota Statutes, Chapter 40A) provides for a statewide agricultural land preservation program consisting of:

- tools for agricultural land preservation at the local level, including guidelines for agricultural land preservation planning and official controls, voluntary “agricultural preserve” restrictive covenants, and property tax incentives for their creation;
- a program to foster awareness of agricultural land preservation and conservation issues; and
- a program of technical and financial assistance to local government.

This is a report to the Minnesota Legislature, as required by Minnesota Statutes, Section 40A.17, which states:

### **40A.17 REPORT.**

*The commissioner shall report to the legislature on March 1 of every even year on activities under this chapter. By July 1, 1985, the report must include the survey of public awareness in the awareness program. The report shall include recommendations for funding levels and other necessary legislative action.*

The report covers implementation activities undertaken in 2016 and 2017.

## Background

The Minnesota Agricultural Land Preservation Program was established with the passage of the Agricultural Land Preservation Policy Act of 1984 (Minnesota Statutes, Chapter 40A). This legislation was preceded, in 1980, by legislation establishing the Metropolitan Agricultural Preserves Program (Minnesota Statutes Chapter 473H). The statewide program was largely modeled after the metropolitan program.

As set forth in the Act, the Commissioner of Agriculture selected five counties, based on selection criteria established in the law, to participate in a pilot program for county agricultural land preservation. The five pilot counties (Douglas, Kandiyohi, Waseca, Winona and Wright), submitted their agricultural land preservation plans and proposed official implementing controls to the commissioner by the December 31, 1987 deadline (Minnesota Statutes, Section 40A.03). Grants of \$20,000 per county were provided to the five pilot counties in 1986. Program administration began with a pilot program as directed by the Agricultural Land

Preservation Program Act. Three of those counties — Waseca, Winona, and Wright — established agricultural preserve programs that continue to this day.<sup>1</sup>

Since January 1, 1987, any county located outside the Twin Cities metropolitan area is eligible to prepare a proposed agricultural land preservation plan and implementing controls under the program for the Commissioner of Agriculture’s review. Elements that must be addressed by county plans and official controls are detailed in the statutes. Counties adopting agricultural land preservation plans and implementing controls may offer agricultural preserves (an agricultural preserve is a restrictive covenant on qualifying land limiting its use to agriculture or forestry). In return, farmers receive property tax credits, protection for normal agricultural practices, and other benefits.

The basic framework to preservation embodied in the program is comprehensive land use planning and growth management as a prerequisite to offering agricultural preserves and property tax credits to property owners. Only three counties have chosen to fully participate in the program and offer agricultural preserves. However, information on agricultural land preservation and its relationship to planning and implementation tools has been provided to most counties in Minnesota since 1984, and direct technical assistance has been provided to nearly half of the counties in the state.

## Overview

The Minnesota Agricultural Land Preservation Program is intended to protect farmland for future generations and to help farmers feel more confident in making long-term decisions. It is also intended to help in avoiding some of the problems associated with uncontrolled development of farm and forest lands. Limiting nonfarm rural development helps keep down public service costs paid by all taxpayers for such things as increased road maintenance, school transportation, and police and fire protection. Controlling such development also decreases the likelihood of conflicts between farmers and nonfarm residents over noise, dust and odors produced by farming operations.

The central feature of the program is the “agricultural preserve,” a restrictive covenant on qualifying land limiting its use to agriculture or forestry. The Agricultural Land Preservation Program statute (Minn. Stat. Ch. 40A) makes it possible for owners of qualifying land to receive property tax credits of \$1.50 per acre per year, and other benefits as well, in return for agreeing to preserve their farms for long-term agricultural use. Property tax credits are funded by a surcharge on mortgage and deed recordings.

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<sup>1</sup> Douglas and Kandiyohi counties decided not to accept restrictive covenants due to concerns about long-term funding of the program.

To be able to offer the benefits of agricultural preserves to property owners, a county must adopt, and have approved by the MDA, an agricultural land preservation plan and official controls (Minn. Stat. §§ 40A.04–05). An agricultural land preservation plan is a part of a comprehensive land use plan that designates land for long-term agricultural use, while also providing for expected growth around urbanized areas. The official controls are land use regulations - usually zoning and subdivision provisions that restrict uses to agriculture, and require low residential densities (typically one dwelling unit per 40 acres) in areas designated for long-term agricultural use.

The Minnesota Agricultural Land Preservation Program statute also directs the MDA to administer programs of public awareness, technical assistance and financial assistance.

The Public Awareness Program is to promote and increase public awareness of the need for agricultural land preservation and conservation and the consequences of resource degradation; the physical, environmental, and social factors that affect agricultural land use; and the availability and effectiveness of agricultural land preservation and conservation approaches and technologies (Minn. Stat. § 40A.14). Under the Public Awareness Program, staff primarily work with local governments, elected officials, and the public to increase awareness of the program as well as issues regarding agricultural land preservation, planning and growth management. This typically includes formal presentations, attending conferences, exhibiting program information, and answering inquiries on a day-to-day basis.

By statute (Minn. Stat. §40A.15), technical and financial assistance is to be for agricultural land preservation activities and to provide assistance to counties and municipalities in preparing agricultural land preservation plans and official controls. Since the pilot program, limited funding has been appropriated for financial assistance to counties (a 2001 LCMR grant provided funding for a county to map agricultural lands and analyze budgetary impacts of nonfarm development<sup>2</sup>).

Staff provide direct and ongoing technical support to local governments upon request, including referral to other governmental or consulting services, presentations to governing and advisory bodies, review of plans and ordinances, and answering specific inquiries. In addition to assistance on agricultural land preservation, staff advise and disseminate information on a wide variety of subjects relating to agriculturally-related land use issues, including budgetary impacts of “rural sprawl” and land use issues of animal agriculture.

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<sup>2</sup> A GIS-based agricultural land preservation model for identifying and prioritizing lands to be preserved for agricultural use was completed by Todd County. In addition, The Development Impact Assessment Model (DIAMaTR) was used by Todd County and the Region 5 Development Commission to study the local budgetary impact of alternative residential growth patterns, from compact to sprawling. Funding for the project was provided by the Minnesota Future Resources Fund as recommended by the Legislative Commission on Minnesota Resources.

## Program Participation

Within the three participating counties (Waseca, Winona and Wright), a total of 122,947 acres are protected by agricultural preserves covenants. As of 2017, the following acres are protected: 74,123 acres in Waseca County; 39,623 in Winona County; and 9,201 in Wright County. Together with the Metropolitan Agricultural Preserves Program (which had enrollment of 208,119 acres), a total of 331,066 acres are protected.

Beginning in 1998, the program has experienced a modest decline in the number of acres protected due to decreased enrollments and increased expirations. Under Minn. Stat. § 40A.11, the owner or county may initiate expiration of the agricultural preserve covenant. The covenant expires eight years after the expiration is initiated.

## Conservation Credits and Funding

One of the benefits received by owners of land with agricultural preserve restrictive covenants is a \$1.50 per acre property tax credit, or “conservation credit.”<sup>3</sup> Agricultural preserve owners in the Twin Cities Metropolitan Area also receive a conservation credit.<sup>4</sup>

Funding for the conservation credits is derived from a surcharge on mortgage and deed recordings. All seven Twin Cities metropolitan area counties and other counties participating in this program are required to charge a \$5.00 fee on each recording or registration of mortgages and deeds subject to the mortgage and deed taxes. One-half of the fee (\$2.50) is deposited in a special conservation account in the county general revenue fund and one-half (\$2.50) is transferred to the Commissioner of Revenue for deposit in the state treasury. One half of the money in the state treasury (\$1.25) is credited to the Minnesota Conservation Fund, and one-half (\$1.25) is credited to the general fund. Money from the county conservation account must be used to reimburse the county and taxing jurisdictions within the county for the agricultural preserves property tax credit. If the cost of the property tax credits exceeds funds available in the county conservation account, the county is reimbursed from the Minnesota Conservation Fund for the amount the tax credits exceed the county account (Minn. Stat. §§ 40A.151–2).

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<sup>3</sup> Other benefits include: local governments cannot enact ordinances or regulations that restrict or regulate normal agricultural practices; annexation proceedings affecting agricultural preserves are limited and must meet certain additional criteria; eminent domain proceedings are limited and subject to public and administrative review; and public sanitary sewer systems, public water systems, and public drainage systems are prohibited in agricultural preserves. Land in a preserve may not be assessed for public projects built in the vicinity of the preserve-covenanted property unless the project is necessary to serve land primarily in agricultural use or if the owner of the land chooses to use and benefit from the project.

<sup>4</sup> In the Metropolitan Area, the rate is equal to the “tax capacity value multiplied by 105 percent of the previous year's statewide average tax rate levied by townships outside the metropolitan area.” The property tax due is either the amount determined by this formula, or by the local tax rate for the city or township where the property is located (whichever is less), with a minimum tax rate of \$1.50 per acre. Source: 2006 Metropolitan Agricultural Preserves Program Status Report.

Tables 1 and 2 show the revenue and credits reimbursed from the county conservation accounts in addition to the balance in the county conservation account and reimbursements made from the Minnesota Conservation Fund to the county. The Minnesota Department of Revenue paid the 2016 conservation credits for acres in agricultural preserves with the 2015 county conservation account revenue, and the 2017 conservation credits for acres in agricultural preserves with the 2016 county conservation account revenue.

*Table 1. 2016 County and State Conservation Accounts*

Region	County	2016 Acres Enrolled	2015 County Conservation Account Revenue	Credits Reimbursed From County Account	Tax Credits Amount Left in County Conservation Account	Reimbursed From State Conservation Fund and State General Fund
Greater MN	Waseca	79,509	3,420	3,420	0	115,843
Greater MN	Winona	39,893	7,353	7,353	0	52,485
Greater MN	Wright	9,197	27,585	13,621	13,964	0
Metropolitan	Anoka	1,210	60,838	7,073	53,765	0
Metropolitan	Carver	107,297	22,390	22,390	0	447,652
Metropolitan	Dakota	71,620	98,802	98,802	0	207,559
Metropolitan	Hennepin	12,704	211,780	211,780	0	46,321
Metropolitan	Ramsey	0	72,870	0	72,870	0
Metropolitan	Scott	8,897	29,250	29,250	0	29,012
Metropolitan	Washington	7,449	49,548	30,953	18,595	0
Total		337,776 acres	\$583,836	\$424,642	\$159,194	\$898,872

Source: Minnesota Department of Revenue

*Table 2. 2017 County and State Conservation Accounts*

Region	County	2017 Acres Enrolled	2016 County Conservation Account Revenue	Credits Reimbursed From County Account	Tax Credits Amount Left in County Conservation Account	Reimbursed From State Conservation Fund and State General Fund
Greater MN	Waseca	74,123	3,410	3,410	0	107,771
Greater MN	Winona	39,623	7,803	7,803	0	51,630
Greater MN	Wright	9,201	30,830	13,658	17,172	0
Metropolitan	Anoka	1,210	66,873	4,861	62,012	0
Metropolitan	Carver	106,895	24,122	24,122	0	359,717
Metropolitan	Dakota	71,281	80,865	80,865	0	175,087
Metropolitan	Hennepin	12,581	221,110	195,495	25,615	0
Metropolitan	Ramsey	0	76,375	0	76,375	0
Metropolitan	Scott	8,661	31,113	31,113	0	9,697
Metropolitan	Washington	7,491	54,698	26,757	27,941	0



Region	County	2017 Acres Enrolled	2016 County Conservation Account Revenue	Credits Reimbursed From County Account	Tax Credits Amount Left in County Conservation Account	Reimbursed From State Conservation Fund and State General Fund
Total		331,066 acres	\$597,199	\$388,084	\$209,115	\$703,902

Source: Minnesota Department of Revenue

## 2016 and 2017 Activities

MDA staff provide direct and ongoing technical support to local governments upon request, including referral to other governmental or consulting services, presentations to governing and advisory bodies, review of plans and ordinances, and answering specific inquiries. In addition to assistance on agricultural land preservation, staff have advised and disseminated information on a wide variety of subjects relating to rural planning issues, including budgetary impacts of “rural sprawl,” and land use issues of animal agriculture. Since the inception of the Minnesota Agricultural Land Preservation Program, staff have worked with over one-third of Minnesota’s counties in development of agricultural land preservation plans and implementing controls.

MDA has expanded its awareness and assistance efforts to include services aimed to improve the economic viability of farming operations. These include:

- Minnesota FarmLink – a web based tool connecting prospective farmers with retiring farmers.
- Beginning and Transitioning Farmer Resource website – a directory of programs and services offered by farm-related organizations in Minnesota, including services for all sizes and types of farming and farmers. Services range from assisting in finding land, finances, farm management planning and scholarships, legal services, networking and mentoring.

MDA also provides technical assistance on planning and zoning issues concerning diversified agricultural operations in the urban fringe areas, including issues affecting immigrant farmers. In addition, staff address issues resulting from an increase in urban and peri-urban farming activities. Urban agriculture can include backyard livestock, community gardens, processing facilities and farmers’ markets, at times causing controversy. Agriculture in urban and peri-urban areas face issues of land use compatibility and intensity. In 2016, the MDA submitted a report to the legislature on how to “effectively and efficiently promote urban agriculture in Minnesota cities.” Some aspects of urban agriculture pertain to comprehensive plans and land use controls, which are important plan elements to agricultural land preservation plans. The purpose of the report was to better understand the key issues facing urban agriculture in the state of Minnesota.

## Assessment of the Public's Awareness of the Agriculture Land Preservation Program

An evaluation of the program was conducted through the 1997 LCMR project, "Reinventing Agricultural Land Preservation Program." *The Evaluation of Minnesota Agricultural Land Preservation Programs* indicated that many of the Awareness and Assistance Program efforts have had a widespread and positive influence on counties which has resulted in plans and controls that emphasize the importance of agricultural land preservation and protection. In addition, it showed that 13.5 million acres of agricultural land in 45 counties were protected for long-term agricultural use by limiting residential density<sup>5</sup> and 17 counties had agricultural zoning ordinances which had been in existence since 1990.

In 2010, staff conducted an informal survey of county commissioners and producers to determine where the Agricultural Land Use Technical Assistance Program should focus its outreach to increase awareness of farmland preservation and protection programs, techniques and efforts. The results indicated a higher awareness among the county commissioners of Minnesota's Agricultural Property Tax Law (commonly known as "Green Acres") than the Minnesota Agricultural Land Preservation Program. The results also indicated a preference among producers for "right-to-farm" ordinances as a method for protecting farmland.

## Recommendations for Funding Levels and Legislative Action

In January 2008, the Office of the Legislative Auditor released an Evaluation Report titled "*Green Acres*" and *Agricultural Land Preservation Programs*, which includes an evaluation of the Minnesota Agricultural Land Preservation Program. The report made the following recommendations to the program:

- If Minnesota wishes to preserve lands for agricultural uses over the long term, the Legislature should consider supplementing existing programs with other strategies. It should also improve current programs by specifying who has authority to enforce them.

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<sup>5</sup> Data collected in that survey indicates that 45 counties have agricultural zoning that utilizes a density limitation of one dwelling unit per 20 acres or less, and 41 counties have agricultural zoning that utilizes a density limitation of one dwelling unit per 40 acres or less. Land in Minnesota with a density limitation of one dwelling unit per 20 acres or less comprises an estimated 13.5 million acres. Land with a density limitation of one dwelling unit per 40 acres or less comprises an estimated 12.4 million acres.

- The Legislature should determine whether spending program revenues on natural resource projects other than agricultural land preservation and soil conservation is unacceptable, and if so, it should specify in law the unallowable activities.<sup>6</sup>

The MDA has no recommendations for funding or legislative changes at this time.

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<sup>6</sup> Legislative Audit Commission, Evaluation Report “Green Acres” and Agricultural Land Preservation Programs, (Office of the Legislative Auditor, 2008), p. 69.