



# Minnesota Agricultural Land Preservation Program

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Status Report 2012 & 2013

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## 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 January 1 of each 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 2012-2013.

## 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.

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

## 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.

To be able to offer the benefits of agricultural preserves to property owners, a county must adopt, and have approved by the Minnesota Department of Agriculture (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 Awareness Program, staff primarily works 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 (the Agricultural Land Preservation and Conservation Assistance Program, 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 provides 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 advises and disseminates 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 131,759 acres are protected by agricultural preserves covenants. As of 2013, the following acres are protected: 81,874 acres in Waseca County; 40,658 in Winona County; and 9,200 in Wright County. Together with the Metropolitan Agricultural Preserves Program (which had enrollment of 209,337 acres), a total of 341,096 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). 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 2012 conservation credits for acres in agricultural preserves with the 2011 county conservation account revenue, and the 2013 conservation credits for acres in agricultural preserves with the 2012 county conservation account revenue.

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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 is \$1.50 per acre. Source: 2006 Metropolitan Agricultural Preserves Program Status Report.

Table 1 2012 County and State Conservation Accounts

County	2012 Acres Enrolled	2011 County Conservation Account Revenue	Tax Credits Reimbursed From County Account	Amount Left in County Conservation Account After Reimbursement	Tax Credit Reimbursed From State Conservation Fund
<b>Greater MN Counties</b>					
Waseca	81,896	3,278	3,278	0	119,520
Winona	40,658	6,985	6,985	0	54,006
Wright	9,293	19,236	13,943	5,293	0
<b>Metropolitan Counties</b>					
Anoka	1,196	47,281	8,330	38,951	0
Carver	106,352	16,528	16,528	0	359,627
Dakota	71,032	60,323	60,323	0	155,032
Hennepin	12,679	175,888	109,028	66,860	0
Ramsey	0	60,771	0	60,771	0
Scott	8,729	24,668	24,668	0	2,780
Washington	7,909	40,769	18,460	22,309	0
<b>Total</b>	<b>339,744</b>	<b>455,727</b>	<b>261,543</b>	<b>194,184</b>	<b>690,965</b>

Source: Minnesota Department of Revenue

Table 2 2013 County and State Conservation Accounts

County	2013 Acres Enrolled	2012 County Conservation Account Revenue	Tax Credits Reimbursed From County Account	Amount Left in County Conservation Account After Reimbursement	Tax Credit Reimbursed From State Conservation Fund
<b>Greater MN Counties</b>					
Waseca	81,874	4,215	4,215	0	118,587
Winona	40,685	8,976	8,976	0	52,054
Wright	9,200	27,370	13,799	13,571	0
<b>Metropolitan Counties</b>					
Anoka	1,205	65,985	8,891	57,094	0
Carver	107,376	23,305	23,305	0	376,650
Dakota	72,097	107,038	107,038	0	139,534
Hennepin	12,634	228,598	131,654	96,944	0
Ramsey	0	73,778	0	73,778	0
Scott	8,584	32,460	24,428	8,032	0
Washington	7,441	55,530	20,629	34,901	0
<b>Total</b>	<b>341,096</b>	<b>627,255</b>	<b>342,935</b>	<b>284,320</b>	<b>686,825</b>

Source: Minnesota Department of Revenue

## 2012 and 2013 Activities

Staff provides 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 has 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 has worked with over one-third of Minnesota’s counties in development of agricultural land preservation plans and implementing controls.

One way to preserve agriculture is to keep farmers on the land, making sure they are successful and can withstand competition for land. MDA’s activities over the past several years have concentrated on helping agriculture remain competitive through collaborative work on immigrant farming issues and development of technical assistance or planning and zoning issues of diversified agricultural operations in the urban fringe.

Over the past two decades, Minnesota has seen more immigrant farmers entering agriculture, struggling to compete. According to the Minnesota 2020 report entitled “*Made in Minnesota 2011: Fertile Ground for Minority Opportunity*”, “Agriculture has always been an entry to Minnesota’s economy for immigrants and refugees .... New settlers, such as the Hmong, from Laos and Cambodia via refugee camps in Thailand, the Karen from Myanmar, join recent waves of immigrants from Russia, Eritrea, Somalia, the Sudan, Ethiopia, Bosnia, Mexico, and various Central and South American countries .... Agriculture and downstream component parts of the food chain remain an attraction to new citizens seeking new opportunities.”<sup>5</sup> Data from the U.S. Census Bureau’s 2008-2012 American Community Survey found that over the past two decades, Minnesota’s immigrant population has been growing, increasing far more rapidly than the immigrant population in the nation as a whole. The 2011 American Community Survey (1-Year Estimates) reports there were 388,839 foreign-born persons living in the state – 7.3% of Minnesota’s total population.<sup>6</sup>

Immigrant farmers play a vital and important part in Minnesota’s agricultural economy and yet they face some of the most difficult and complex issues. To help farmers address their challenges, staff works with public, private, non-profit and for-profit businesses and organizations to explore ways to work collaboratively to resolve some of the issues. The work began in 2011 by MDA conducting a strategic planning session on immigrant farming issues. MDA invited representatives from organizations, working with immigrant farmers, to participate in a strategic planning session on immigrant farming issues. A strategic plan was developed based on the results of the meeting. The plan has provided a coordinated approach for the partners to work strategically on the immigrant farming issues, which has been spearheaded by MDA staff.

Along with MDA’s work on agricultural land preservation efforts on immigrant farming issues, staff also addresses issues resulting from an increase in urban and peri-urban farming activities. Urban agriculture can include backyard livestock to 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. This past fall, staff was invited to meet with the Eureka Township (Dakota County) Agri-Tourism Task Force to advise it on how to address diversification of agricultural operations in the Eureka Township Zoning Code. Staff has been invited to present at the 2014 Minnesota Association of Townships’ Urban Spring Short Course on the topic of planning and zoning for agricultural enterprise diversification. Staff is also considering developing guidance on policies and regulatory techniques that support local food production and urban and peri-urban agriculture while maintaining land use compatibility.

## Assessment of the Public’s Awareness of 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

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<sup>5</sup> Lee Egerstrom, Minnesota 2020 Fellow, *Made in Minnesota 2011: Fertile Ground for Minority Opportunity*, (Minnesota 2020, November 2011), pgs. 3 - 8.

<sup>6</sup> It is important to note that organizations that work with immigrant farmers report that census data for farmers of refugee status is under-reported. Culturally, refugees are fearful of government and tend not to complete census information.

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>7</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 “Green Acres”, Minnesota’s Agricultural Property Tax Law 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.*
- *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>8</sup>

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

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<sup>7</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

<sup>8</sup> Legislative Audit Commission, “Evaluation Report “Green Acres” and Agricultural Land Preservation Programs,” (Office of the Legislative Auditor, 2008), p. 69.