



# Minnesota Agricultural Land Preservation Program

**Legislative Report 2018 & 2019**

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## Executive Summary

The Agricultural Land Preservation Policy Act of 1984 (Minn. Stat. Chap. 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
- 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 (Minn. Stat. 40A). This legislation was preceded, in 1980, by legislation establishing the Metropolitan Agricultural Preserves Program (Minn. Stat. Chap. 473H). The statewide program was largely modeled after the metropolitan program.

Within the three participating counties (Waseca, Winona, and Wright), a total of 127,710 acres are protected by agricultural preserves covenants. As of 2019, the following acres are protected: 79,117 acres in Waseca County; 39,439 in Winona County; and 9,154 in Wright County. Together with the Metropolitan Agricultural Preserves Program (which has enrollment of 202,247 acres), a total of 329,957 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, Emerging, and Transitioning Farmers website – a directory of programs and services offered by the MDA, ranging from finding land, farms, and opportunities through Minnesota FarmLink, grants and loans; and scholarships for farm business management education
- Technical assistance on planning and zoning issues concerning diversified agricultural operations in the urban fringe areas, including issues affecting emerging farmers

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

## Introduction

The Agricultural Land Preservation Policy Act of 1984 (Minn. Stat. Chap. 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
- a program of technical and financial assistance to local government

This is a report to the Minnesota Legislature, as required by Minn. Stat. §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 2018 and 2019.

## Background

The Minnesota Agricultural Land Preservation Program was established with the passage of the Agricultural Land Preservation Policy Act of 1984 (Minn. Stat. Chap. 40A). This legislation was preceded, in 1980, by legislation establishing the Metropolitan Agricultural Preserves Program (Minn. Stat. Chap. 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 (Minn. Stat. §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

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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.

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, which is 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 avoid 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 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 includes 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 aid 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 have advised and disseminated information on a wide variety of topics relating to rural planning issues, including budgetary impacts of “rural sprawl,” and land-use issues of animal agriculture. In recent years we have provided technical assistance on planning and zoning issues concerning diversified agricultural operations (value-added agriculture, such as processing of agricultural products, and agri-tourism) urban and peri-urban (urban fringe) agriculture, and issues affecting emerging farmers.

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.

## Program Participation

Within the three participating counties (Waseca, Winona, and Wright), a total of 127,710 acres are protected by agricultural preserves covenants. As of 2019, the following acres are protected: 79,117 acres in Waseca County; 39,439 in Winona County; and 9,154 in Wright County. Together with the Metropolitan Agricultural Preserves Program (which had enrollment of 202,247 acres), a total of 329,957 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.

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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.

## 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 (this is called the “conservation fee”). 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 2018 conservation credits for acres in agricultural preserves with the 2017 county conservation account revenue, and the 2019 conservation credits for acres in agricultural preserves with the 2018 county conservation account revenue. Beginning 2017, the expenditures exceeded revenue to the Minnesota Conservation Fund, requiring expenditures from the state general fund as provided in statute.

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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.

Table 1. 2018 County and State Conservation Accounts

County	2018 Acres Enrolled	2017 County Conservation Account Revenue	2017 Minnesota Conservation Fund Revenue <sup>5</sup>	Credits Reimbursed from County Accounts	Reimbursed from Minnesota Conservation Fund and State General Fund	Total Credits Paid	Funding Remaining in County Conservation Accounts After Reimbursements Made <sup>6</sup>
<b>Greater MN:</b> Waseca	79,060	3,618	1,793	3,618	114,973	118,591	0
<b>Greater MN:</b> Winona	39,584	7,695	3,814	7,695	51,682	59,377	0
<b>Greater MN:</b> Wright	9,128	29,675	14,708	13,557	0	13,557	16,118
<b>Metro:</b> Anoka	1,210	64,943	32,188	3,713	0	3,713	61,230
<b>Metro:</b> Carver	105,349	20,273	10,048	20,273	314,823	335,096	0
<b>Metro:</b> Dakota	71,798	76,780	38,055	76,780	148,285	225,065	0
<b>Metro:</b> Hennepin	12,060	211,045	104,602	175,367	0	175,367	35,678
<b>Metro:</b> Ramsey	0	75,602	37,471	0	0	0	75,602
<b>Metro:</b> Scott	8,352	29,488	14,615	29,488	4,179	33,667	0
<b>Metro:</b> Washington	7,442	51,863	25,705	17,202	0	17,202	34,661
<b>TOTAL</b>	<b>\$333,983</b>	<b>\$570,982</b>	<b>\$283,000</b>	<b>\$347,693</b>	<b>\$633,942</b>	<b>\$981,635</b>	<b>\$223,289</b>

Note: Due to the balance of the Minnesota Conservation Fund, it was necessary to pay \$350,942 of the \$633,942 from the state general fund.

Source: Minnesota Department of Revenue

<sup>5</sup> Due to accounting differences of actual revenue amounts from counties, caused by factors such as the differences in timing of deposits into the Minnesota Conservation Fund (MCF), revenue amounts from counties shown in this column are based on counties' expected shares of the total revenue (see page 5 for explanation of the conservation fee and funding). The total revenue shown was the balance in the MCF account as of February 1, 2018.

<sup>6</sup> Any funds remaining in county conservation accounts after reimbursements must be spent for purposes specified in Minn. Stat. § 40A.152 or returned to the State.



Table 2. 2019 County and State Conservation Accounts

County	2019 Acres Enrolled	2018 County Conservation Account Revenue	2018 Minnesota Conservation Fund Revenue <sup>7</sup>	Credits Reimbursed from County Accounts	Reimbursed from Minnesota Conservation Fund and State General Fund	Total Credits Paid	Funding Remaining in County Conservation Accounts After Reimbursements Made <sup>8</sup>
<b>Greater MN:</b> Waseca	79,117	3,533	1,161	3,533	115,083	118,616	0
<b>Greater MN:</b> Winona	39,439	7,111	2,338	7,111	52,050	59,161	0
<b>Greater MN:</b> Wright	9,154	28,433	9,347	13,593	0	13,593	14,840
<b>Metro:</b> Anoka	617	59,518	19,566	1,649	0	1,649	57,869
<b>Metro:</b> Carver	103,767	20,413	6,711	20,413	198,127	218,540	0
<b>Metro:</b> Dakota	70,122	71,305	23,441	71,305	109,293	180,598	0
<b>Metro:</b> Hennepin	11,581	194,396	63,907	142,650	0	142,650	51,746
<b>Metro:</b> Ramsey	0	89,798	29,521	0	0	0	89,798
<b>Metro:</b> Scott	8,720	49,056	16,127	18,654	0	18,654	30,402
<b>Metro:</b> Washington	7,440	48,303	15,880	18,394	0	18,394	29,909
<b>TOTAL</b>	<b>\$329,957</b>	<b>\$571,866</b>	<b>\$188,000</b>	<b>\$297,302</b>	<b>\$474,553</b>	<b>\$771,855</b>	<b>\$274,564</b>

Note: Due to the balance of the Minnesota Conservation Fund, it was necessary to pay \$286,553 of the \$474,553 from the state general fund

Source: Minnesota Department of Revenue

<sup>7</sup> Due to accounting differences of actual revenue amounts from counties, caused by factors such as the differences in timing of deposits into the Minnesota Conservation Fund (MCF), revenue amounts from counties shown in this column are based on counties' expected shares of the total revenue (see page 5 for explanation of the conservation fee and funding). The total revenue shown was the balance in the MCF account as of February 1, 2019.

<sup>8</sup> Any funds remaining in county conservation accounts after reimbursements must be spent for purposes specified in Minn. Stat. § 40A.152 or returned to the State.

## 2018 and 2019 Activities

In addition to routine work, recent activities have aimed to improve the economic viability of farming operations. These have included:

- Minnesota FarmLink – a web-based tool connecting prospective farmers with retiring farmers
- Beginning, Emerging, and Transitioning Farmers website – a directory of programs and services offered by the MDA, ranging from finding land, farms and opportunities through Minnesota FarmLink, grants and loans; and scholarships for farm business management education

## 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>9</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.

## External Evaluations of the Minnesota Agricultural Land Preservation Program

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

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<sup>9</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.

Agricultural Land Preservation Program. The report may be found on the Office of the Legislative Auditor website at: <https://www.auditor.leg.state.mn.us/ped/2008/greenacres.htm>.

The Farmers' Legal Action Group, Inc. (FLAG) issued a report in 2012 entitled, *Preserving Minnesota's Agricultural Land: Proposed Policy Solutions*. It may be found on the FLAG website at: <http://www.flaginc.org/publication/preserving-minnesotas-agricultural-land-proposed-policy-solutions/>.

## **Recommendations for Funding Levels and Legislative Action**

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