

VI. Agricultural Land Protection Programs

Farmland protection programs have been widely used to provide incentives to land owners to retain property in agriculture and to stimulate the local economy. These tools range from permanent restrictions to annual tax incentives that ensure the land is meeting its agricultural potential.

A. Federal Programs

Federal Agricultural Environmental Enhancement Program

This federal program offers assistance to prevent and mitigate impacts to natural resources that could be or have been incurred from agricultural practices. The property must consist of at least five contiguous acres of land under the same ownership where at least three acres are in cranberry bog production or have at least 5,000 square feet under greenhouse production. Farmers selected to participate are reimbursed for the approved costs of materials up to \$30,000, which are used to install best management practices to improve water quality, conserve water or reduce greenhouse gas emissions. Owners are required to meet with the USDA Natural Resources Conservation Service to devise a farm plan and to apply for the program through the Massachusetts Department of Agriculture.

Federal Environmental Quality Incentive Program

This federal program offers financial and technical assistance to improve agricultural land management practices in order to protect the surrounding natural resources. Eligible land is determined by the USDA Natural Resources Conservation Service. The applicant must own the land, it must be in active agricultural use and produce or sell a minimum of \$1,000 in agricultural products. Amount of acres, degree of threatened land, and number of environmental objectives affect the decision regarding the application.

B. State Programs

Massachusetts General Laws Chapter 61A

Massachusetts General Laws Chapter 61A was created to promote active agricultural and horticultural land use. This local differential assessment classification provides large local tax benefits to property owners looking to make a long-term commitment to farming. The property must be at least five acres of contiguous land actively devoted to farming and must have been farmed for two consecutive years prior to submitting an application. The minimum gross sales for the first five acres must be at least \$500, and \$5 for each additional acre. In return, the land owner receives the monetary tax difference between the best use value of the land and the agricultural value, and this then temporarily takes the land out of development. The owner must apply for this classification annually. If the owner decides to sell the land, the town receives first right of refusal to purchase the property, which can be placed under the jurisdiction of a town commission or appropriate non-profit.

Massachusetts Conservation Restriction with Agricultural Provisions

This permanent authorized state-based restriction regulates the use of the land to protect specified conservation values while still allowing agriculture as a permitted use. There is no minimum acreage requirement and applicability is based on overall value of resources on the property. A land owner(s) approaches a local land trust or conservation commission to begin the process of placing this deed restriction on the land. After the restriction is enacted, the property owner(s) receives a greater federal income tax deduction. This option removes the threat of development of active agricultural land while reducing the value for future farming ventures.

Massachusetts Agricultural Preservation Restriction (APR) Program

The Massachusetts Agricultural Preservation Restriction (APR) Program was created to preserve and to protect agricultural land, especially the finite designated prime agricultural soil lands by providing a non-development alternative to owners of “prime” and “state important” agricultural land. As of 2010 the APR program includes almost 800 farms and a land area greater than 66,000 acres.

Persons who are interested in this program must contact the State of Massachusetts Department of Agriculture for an application and meet with the USDA Natural Resources Conservation Service to complete a site evaluation and farm plan. To be considered, the farm must be at least five acres in size, be actively devoted to agriculture for the two preceding tax years, and gross at least \$500 in sales per year plus \$5.00 for each additional acre or \$0.50 for each additional acre of woodland and/or wetland. Other factors affecting acceptance into the program include: suitability and productivity of the land for agricultural use based on soil classification, physical features, location; threat to the continuation of agriculture on the land due to circumstances such as owner’s death, retirement, financial difficulties, development pressure, or insecurity due to rental agreements; the degree to which the land is of a size or composition to be economically viable for agricultural purposes and the likelihood that it will remain in agriculture for the foreseeable future. When the restriction is placed on the property, the land owner receives a cash payout equaling the difference between the “fair market value” and the “agricultural value” of the property. This money can then be used to stimulate the local economy by improvements made to the farm or giving the ability to clear up farming debts owed.

Section IX of this document overviews the efficacy of the state APR program for Cape Cod farms.

Massachusetts Farm Viability Enhancement Program

The state managed Farm Viability program offers assistance to farmers to “modernize” their farms through business planning. The parcel must be a minimum of five acres of suitable and productive land, based on soil classification, physical features, and location. Threats to the continuation of farming on the land due to financial issues as well as the amount of experience that the farmer has also factor into acceptance into this program. The goal of this program is to make farming more economically viable for Massachusetts’ farmers and to hold participating farmers to a higher standard when incorporating environmental protection into their farming plan.

C. Other Programs and Agencies involved in Farmland Protection in Massachusetts

Regional Level

The Cape Cod Commission is a regional land use planning and regulatory agency. The Regional Policy Plan (RPP) contains both planning goals and policies for the region and a regulatory framework for evaluating Developments of Regional Impact. The need to protect farmland is addressed in three sections of the plan: land use, open space and heritage preservation and community character. In the most recent update to the plan in 2009, input from the local agriculture community resulted in some enhanced language when compared to previous plans. As the planning goals of the RPP are often linked to regulatory actions, further discussion of the RPP can be found in the following section of this document.

Land Banks

When Nantucket residents voted in favor of a land bank and the Massachusetts legislature subsequently passed special legislation in 1983, the island became the first place in the country to establish a land bank. Martha’s Vineyard followed suit in 1985. In both cases, the pursuit of a land bank came in response to spiraling real estate activity. On the islands a 2% tax on most real estate transfers provided the income for land bank purchases. On Cape Cod, it was not until 1998 that a land bank was established to help protect open space. Like

the islands, Cape Cod had witnessed a rapid increase in the pace of development over the past 20 years. Cape Cod's land bank was funded by a 3% charge on property taxes and a \$15 million dollar match from the state. Over the years, these land banks, often working with local land trusts, have protected thousands of acres of land from development.

Language in the land bank legislation clearly articulates the resources that the residents of Nantucket, Martha's Vineyard and Cape Cod sought to protect.

The Nantucket land bank legislation identified "...ocean, harbor and pond frontage...barrier beaches...marshes, estuaries and adjoining uplands, heathlands and moors, land providing access to ocean, harbor and pond frontage and land for bicycle paths...land for future public recreational facilities and use...recreation land to protect existing and future wellfields and aquifer recharge areas; and...land used or to be used for agricultural purposes."

The Martha's Vineyard land bank legislation identified "... land to protect existing and future well fields, aquifers and recharge areas; (b) agricultural lands; (c) forest land; (d) fresh and salt water marshes and other wetlands; (e) ocean and pond frontage, beaches, dunes and adjoining backlands, to protect their natural and scenic resources; (f) land to protect scenic vistas; (g) land for nature or wildlife preserves; (h) easements for trails and for publicly owned lands; and (i) land for passive recreational use.

The Cape Cod land bank stated that "Any real property interest in open space purchased with land bank funds shall be retained in natural, scenic, or open condition ...Real property interests may consist of any of the following: (a) land to protect existing and future well fields, aquifers and recharge areas; (b) agricultural lands; (c) forest land; (d) fresh and salt water marshes and other wetlands; (e) ocean and pond frontage, beaches, dunes and other coastal lands; (f) land to protect scenic vistas; (g) land for natural or wildlife preserve; (h) land and easements for trails; and (i) land for recreational use.

Preservation of agricultural land was identified in the legislation of each land bank as an important resource to be protected and some active farms have been protected with these funds. Notably Martha's Vineyard protected numerous agricultural parcels from development through acquisition and the use of conservation restrictions.

Local land trusts have also played a role in preservation of farms in Massachusetts. The American Farmland Trust conducted surveys of Massachusetts land trusts and Massachusetts Farm Bureau members in 2009 to gain feedback on the efficacy of the APR program. The land trusts' survey revealed that land trusts had been very involved (via pre-acquisition or significant fundraising) in almost 90 APR projects that resulted in protection of more than 10,000 acres of land.