

# Waupaca County Working Land Conservation Easement Program



December, 2008  
(cover page)

*“Help Protect Working Land — A Legacy for Your Family Farm, A Future for Local Agriculture & Forestry”*

The Waupaca County Working Land Conservation Easement Program is designed to help farmers and woodland owners ensure their crop and forest land stays in production...the same land that supports our local economy with agriculture and tourism.

Broad public input during the recent countywide planning process showed more than three-quarters of all Waupaca County land owners (urban and rural) agree protecting farmland, forestland and wildlife habitat in their community is important. However, plans recently adopted by each Town show less than half (44%) of all cropland and only two-thirds (67%) of existing private woods and wetland areas as the preferred future type of land use. This includes less than half (48%) of all prime and irrigated farmland, or just 15% of the total land area in Waupaca County to support future farming operations! Protecting this vital land base is essential to the long term survival of our local agriculture economy, rural character and wildlife habitat.

The Waupaca County Working Land Conservation Easement Program is a voluntary donation tool available to landowners to help protect productive working land from non-agriculture development. Land with a conservation easement continues to be privately owned, but with limitations regarding future use.

**What is a conservation easement?** A conservation easement is a voluntary binding written agreement (contract) between a landowner and a qualified conservation organization (land trust, non-profit or government entity). To protect the land’s “resource” value, an easement permanently limits the use of the property (parcel). Easements accepted by Waupaca County must be perpetual, “running” with each donated parcel and recorded by the Register of Deeds. The easement is binding on all current and future owners.

## **Conservation easements offer several advantages to landowners:**

- ◆ The property remains privately owned. Owners can still live on the land, rent, sell or will it to heirs.
- ◆ Most management decisions remain with the landowner including whether or not to allow public access, as well as the type of farming and forestry enterprises.
- ◆ Easements can reduce income and estate taxes. A donated conservation easement is considered a charitable gift and can provide federal income tax deductions. A lower estate value can also help heirs retain the land after the owners death instead of selling the land to pay higher estate taxes.
- ◆ Easements are flexible and can be written to reflect the needs and vision of each donor.
- ◆ Easements are permanent. Conservation easements remain in force with each new owner as well. Unlike deed restrictions, a conservation easement is forever and will be monitored by Waupaca County to ensure the provisions of each easement are protected.

## **The landowner continues to own the property and keeps all rights listed in the easement, including:**

- ◆ Agricultural operations and forest management practices, including maple syrup operations;
- ◆ Build and maintain barns and other farm structures;
- ◆ The easement may also allow a pre-determined number and location of future residential homes, provided the land’s “resource” value can be protected;
- ◆ Clear, build and maintain trails for non-commercial recreational activities, including a seasonal camp for personal use.

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## **A landowner's use of property conserved by an easement is generally restricted by these provisions:**

- ◆ Uses are limited to agriculture, forestry, education, non-commercial recreation, and open space;
- ◆ Commercial, industrial, and mining activities are prohibited;
- ◆ New buildings are prohibited, except those constructed for agricultural or forestry purposes, or house sites specifically negotiated in advance;
- ◆ Signs are generally prohibited, except for information and direction signs regarding the property;
- ◆ Excavation or change of topography is not allowed, except when needed to carry out a permitted use;
- ◆ With limited exceptions, additional land divisions are generally prohibited, as well as other unanticipated future uses inconsistent with the original owner's conservation goals.

**Donated Easements Can Increase Your Federal Income Tax Deductions**—Current federal tax law encourages landowners to help protect working land by allowing for a federal income tax deduction up to **50%** of the donors adjusted gross income (must have a qualified *fair market value* appraisal). Plus, any remaining balance can be carried forward for deductions over the next 15 years.

**100% Deduction Allowed for Farmers!!!** - Farmers (those who receive more than half their total income from farming) are allowed to deduct the fair market value of their donated easement up to **100%** of their adjusted gross income with the remaining value carried forward for deductions over the next 15 years. Reduced tax liabilities can also encourage more activity and investment in the local economy (*note...the federal income tax deduction is set to expire at the end of 2009, so interested landowners should not delay!*).

**Lower Estate Taxes Can Help Transfer Property to Heirs** – Those who inherit large properties face substantial estate taxes. Estate tax is levied on a property's highest and best use, usually the amount a developer or speculator would pay. The resulting tax burden can be so large the heirs are compelled to sell or split the property just to pay the estate taxes. A conservation easement can reduce estate taxes because the donation of the easement will likely lower the property value (note, a donated easement does not reduce property tax revenue on farmland in WI because of the current use value assessment system). An easement can be donated in a will, and then deducted from the taxable estate. In certain circumstances, federal tax law also allows for a 40% reduction in the remaining value of the land for landowners who donate a conservation easement. This reduced value becomes the basis for any estate tax. Under the Taxpayer Relief Act of 1997 (amended in 2001), an easement donor is eligible for an additional exclusion from estate tax of up to \$500,000, beyond the exclusion of the value of the easement itself.

**Local Education / Demonstration Project Available** - Grant funding is available in 2009 for Waupaca County farm and woodland owners to explore if a conservation easement is right for them. Cost-sharing is available (85% up to a maximum of \$4,250/landowner) to help those interested offset appraisal, title insurance and recording fees, as well as tax accountant and attorney expenses. However, because donating a conservation easement is voluntary, there is no obligation or requirement that participating landowners execute the easement.

Don't delay, available grant funds are limited. To receive a copy of the cost-share program application form or for more information, contact Greg Blonde, Waupaca County UW-Extension Agent at **715-258-6230** or by Email at [greg.blonde@ces.uwex.edu](mailto:greg.blonde@ces.uwex.edu).



University of Wisconsin, U.S. Department of Agriculture and Wisconsin counties cooperating. UW-Extension provides equal opportunities in employment and programming including Title IX and ADA. This document can be made available in alternative formats by calling (715) 258-6230 or TTY 800-947-3529.