Your Land, Your Legacy

PLANNING FOR EVERY WISCONSIN LANDOWNER

UW Extension

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AUTHORS

Paul Catanzaro
University of Massachusetts Amherst

Wendy Sweetser Ferris
Franklin Land Trust

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Estate Planning Is for Every Landowner

Your land is part of your legacy. You have been a good steward of your land, carefully making decisions about its use. Planning what will happen to your land after you are gone is the next critical step of being a good steward. In fact, it may be the most important step you can take as a landowner—not just for your benefit but for the benefit of your family, your community, and the land itself.

- **Who will own your land, and how will it be used?**
- **What will your legacy be?**

Making decisions about the future of your land may seem overwhelming. It can be difficult to initiate conversations with your family, to sort out the different professionals involved in estate planning, and to know how to take the first step. Try not to get overwhelmed—the hardest step is often the first one. **This publication can help get you started, and discusses the types of professionals who will help make it happen.**

Photo: iStockphoto/Catherine Yeulet

WHY PLAN?

An estate is the total of all your assets, which includes your land, house, and bank accounts, as well as any stocks and bonds. An estate plan ensures that your assets will be distributed in a way that will meet the financial and personal needs of you and your heirs. Although the phrase "estate plan" may bring to mind an image of a single all-encompassing document, an estate plan is best thought of as a combination of documents (such as a will) and tools (such as a conservation easement) that will achieve your goals when implemented together. Estate planning is not just for the wealthy or for those who own "estates"; if you own

land, then estate planning is a necessary and valuable step for ensuring that the legacy of your land is a positive one.

Successful estate planning will help you meet your financial and personal goals as well as the needs of your heirs. Every landowner and every family is different; some have children who are prepared and excited to become the new owners of the land, while others are searching for creative solutions to relieve the financial pressure and responsibility of owning land. Landowners who do not have children may be seeking a way to maintain the land as forestland and find a suitable owner.

The good news is that land is a flexible asset that lends itself to creative solutions for gaining financial and personal value.

Successful estate planning will often avoid certain taxes, increase the assets given to your heirs, address your family's goals for owning and using the land, ensure financial security for you and your family, and maintain good family relationships. If you do not plan your land's future, the land will likely pass on based on the type of ownership in which your land is held. Failure to plan your land's future may result in negative financial consequences, may allow the land to be treated in a way counter to your goals, and may lead to tension or animosity among your family members, which can last long beyond your passing.

Your land is likely one of your most valuable assets, especially if you have owned it for a long time and it has greatly increased in value. However, land is not like other assets. Because land can be connected to memories, experiences, and feelings not typically associated with other assets, such as stocks and bonds, your land may also have significant personal value. Dividing your assets among family members brings with it the challenge of providing for their financial as well as personal needs.

If you have family, some of them may be interested in receiving financial value from the land or obtaining a piece of land on which to build a home. Others may be interested in receiving personal value from the land by keeping it in the family and in its current or natural state. And, of course, it is possible that family members may want or need a little of both.

The good news is that land is a flexible asset that lends itself to creative solutions for gaining financial and personal value. Whether your intention is to keep the land in your family or not, it is possible to develop a solution to meet your needs and goals as well as those of your family.

Unfortunately, there are countless examples of landowners who put off a decision about their land until it was too late. The earlier you start your planning process, the more options you will have for your land.

General Estate Planning

Each landowner is different, so there is no such thing as a one-size-fits-all estate plan. But there are three elements that are universal, which an attorney can help you craft relatively easily. Every estate plan, at a minimum, should include the following:

a will
a legal document that specifies how your assets should be handled after you die

a durable power of attorney
a legal document that specifies a person of your choosing to handle your financial affairs if you are unable to do so

a health-care proxy
a legal document that specifies a person of your choosing to make medical decisions for you if you are unable to do so

In addition to these documents, estate planning can be used to determine the future ownership and use of your land.

Conservation-Based Estate Planning

This publication focuses on **conservation-based estate planning**—those elements of estate planning that deal directly with the goal of keeping some or all of your land in its natural, undeveloped state. Most people understand their options to subdivide and develop their land. However, many are not aware of their land conservation options, the variety of helpful legal tools used for transferring land, and how using these tools separately or in combination may produce a result that better meets one's personal and financial goals.

Articulating Your Goals (with or without family)

Begin by thinking about what you want most—to see your land remain undeveloped forever? to maintain family harmony? to ensure financial security? to preserve flexibility for your heirs? You may want to rank your goals in order of their importance, and list any challenges standing in the way of those goals.

If you own your land with others, your next step will be to talk about your goals with your spouse or co-owners and try to incorporate shared goals and values as you lay the foundation for your plan for the future of the land.

INVOLVING FAMILY IN THE DECISION

If you have children, it's up to you to decide to what extent you want to involve them in determining the future of your land. Every family's situation is different. Involving your family can help avoid conflict and get their buy-in. In planning for the future of the land, families may be forced to face difficult subjects, such as aging, death, and how family assets are to be distributed among family members.

Photo: iStockphoto/Andreas Reh

Discovering your family members' needs and wishes can take place either at a family meeting or through individual conversations when there is a good opportunity to talk. Be sure to choose the strategy that will best fit your family's style. No matter the strategy chosen, your goal is to get a sense of your family's personal and financial goals and how they feel about the land. These discussions are an opportunity to gain an understanding of your family members' wants and needs, gather questions, and discuss options. In doing so, you're also creating a protocol for honest, productive, and respectful family communication.

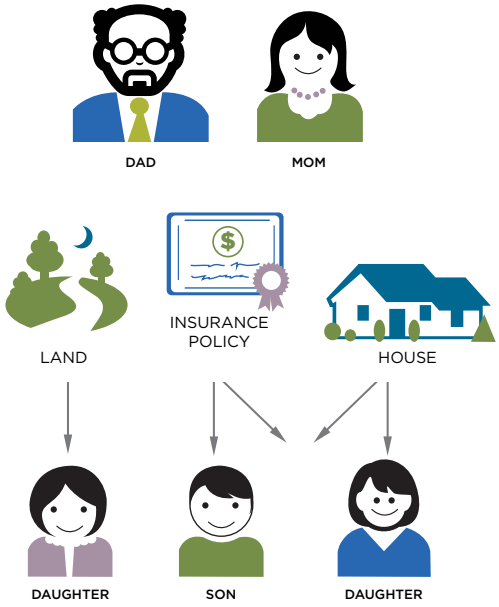
A family meeting is a forum in which family members can share their ideas and concerns. The goal of the family meeting is to give individual members the opportunity to express what the land means to them as well as their financial or practical needs, and to allow the family to hear the needs and wants of others. This can be accomplished by simply asking each person to talk about how he or she feels about the land. Is it a priceless family heirloom to be protected at all costs? Is it a financial asset and nothing more? Or is it something in between? By listening to

A family meeting is a forum in which family members can share their ideas and concerns.

Equal vs. Equitable Treatment

From the time their children are very young, most parents strive to treat each child the same. When it comes time to plan the future of your land, it's important to realize that it's possible to treat your children equitably, or fairly, without their inheritances being precisely equal. You may not have enough assets to give your heirs shares of equal value, and different heirs may be carrying more of the management responsibility or costs for the land. If you set up an honest conversation and a fair process to determine your children's needs and values, you can still treat them equitably without dividing all your assets into equal shares.

Perhaps other assets, like a life insurance policy or proceeds from the sale of a house, can go to one child while the land goes to another. Maybe selling a house lot will provide enough income for one heir so that another can receive the land. Giving your land to each heir in equal parts can set the stage for the undesirable outcome of further dividing or selling the land to generate enough income for one uninterested heir.



If you set up an honest conversation and a fair process to determine your children's needs and values, you can still treat them equitably without dividing all your assets into equal shares.

one another, family members may learn that they share certain feelings about the land—or, just as important, that there are differences. Together, this information can guide your next steps and inform your work with estate planning professionals. It may be helpful to have an estate planning professional attend a family meeting to provide technical information and answer questions directly. See "Guidelines for Holding Family Meetings and Good Communication" on page 8.

Sometimes a family's history or dynamics prevents them from having healthy conversations about what to do with the land. However, avoiding these important conversations and letting your family figure it out after you are gone will likely lead to even more tension. A neutral person or professional facilitator can often help guide these difficult conversations; alternatively, simply having individual conversations with family members can be a good strategy.

Though your goal may be to get your family to agree on a plan for your estate, there may be situations in which families are not able to work together or agree. In this case, you need to be prepared to take the input you have received; work with the necessary professionals; and do what you believe is right for yourself, your family, and your land. Do not get paralyzed by family disagreements. If you avoid planning because people don't agree now, you can be sure the conflict will be greatly exacerbated after you are gone.

MOVING AHEAD

Maintaining momentum after you have determined your goals for the land is important. A list of questions and information needs you collected when setting your goals will help determine your next steps. This list can help guide you to the most appropriate estate planning professional to meet your needs.

SEE "GUIDELINES FOR HOLDING FAMILY MEETINGS AND PRACTICING GOOD COMMUNICATION" ON PAGE 8.

A **professional facilitator** is trained to assist people in conducting healthy conversations and reaching consensus. A facilitator can help organize meetings, make sure each family member is being heard, and move the process forward by setting deadlines and following up.

Guidelines for Holding Family Meetings and Practicing Good Communication

- Try to hold the meeting in person if possible, but not over a holiday or during a family celebration, when emotions may already be running high. Avoid email, as it can lead to misunderstanding.
- Hold the meeting in a space where everyone feels comfortable. Familiar places can reinforce old habits, so a neutral location may be preferable.
- Err on the side of inclusiveness, especially at the beginning of the process. Inviting all family members, including spouses, ensures that everyone hears the same information firsthand.
- Take a walk on the land beforehand if possible to give everyone an opportunity to reflect on what the land means to him or her.
- Ask everyone to avoid making assumptions and try to keep an open mind. Criticize ideas, not people.
- Give everyone an equal opportunity to share his or her thoughts. This may mean encouraging quiet family members to talk and asking more vocal ones to listen.
- Use questions or "tell me more about that" to explore underlying concerns and interests.
- Be clear about who is responsible for what and when. Establish follow-up tasks and deadlines.
- Use the services of a trained facilitator if family dynamics suggest that your family needs assistance conducting healthy conversations and reaching consensus.

Photos: (top)iStockphoto/John Cowiel; (bottom)iStockphoto/Digitalskillet

Estate Planning Tools

There are two important questions that can help drive your legacy planning process:

- **Do you want to determine who will own your land?**
- **Do you want to control the use of your land in the future?**

These questions can help determine the estate planning tools that will help you achieve your personal and financial goals.

DETERMINING THE FUTURE OWNERSHIP OF YOUR LAND

If you don't want to determine who will own your land, you can sell it and use the proceeds to achieve your goals. If you do want to determine who will own your land, there are conservation-based estate planning tools that will help you formalize your wishes.

USING WILLS TO DETERMINE WHO WILL OWN THE LAND

A will, also called a "last will and testament," is the most commonly used estate planning tool. A will is a legally binding document that states how you want your assets distributed once you have passed away.

Wills are simple, inexpensive ways to address many people's estate planning needs, but they can't do it all. For example, a will won't help you minimize taxes or avoid probate. Probate is the winding down of your affairs under the supervision of the courts. Since probate makes all your assets public information, some people want to avoid it. However, for families that are dealing with conflict or miscommunication, it can be a beneficial process to have the courts involved.

In order to be effective at passing your land by way of your will, you need to ensure that the way you own your land permits you to pass it on that way—and, if so, that your will is written in a way that ensures it will achieve your desired goals.

Following are some considerations for the development of a will that effectively distributes your land assets to meet your goals. These suggestions are not meant to replace the advice of an estate planning professional but to help guide your conversations with one.

Description of Current Owners

If you own only a partial interest in the land, or if you want to make a provision for how the land will pass after owning it as the survivor of joint owners, it is helpful to state your ownership interest in your will.

Beneficiaries

Your will should include the names of the individual(s) (spouse, children, siblings) or organizations (land trust, state conservation agency, local town) to which you would like to give your land.

If you do not have heirs and are interested in giving your land to a land trust, state conservation agency, or local town, it is highly recommended that you meet with the organization and discuss your intentions. Though you might think that any organization would jump at the chance to own your land, be sure to have in-depth conversations with your chosen recipient,

An **estate planning attorney** specializes in the legal strategies and tools used to help you reach your personal and financial goals. Your family attorney may not be qualified to help you plan for your land. Land is a unique type of asset, and not all estate planning attorneys have expertise in dealing with it. When developing an estate plan, work with an attorney who has experience with land and the conservation tools available to help you meet your goals.

as some organizations have financial requirements for accepting land or would rather sell your land and put the proceeds toward their mission. Donating your land would qualify as a charitable gift and may provide your estate a tax break. Contact a tax attorney or a certified public accountant with experience in land conservation to learn about the tax implications of a charitable gift of your land.

Avoid Conditions in Your Will

It is not advisable to set up conditions for the ownership of the land—for example, "My daughter can have the land as long as she doesn't build houses on it." Conditions can be difficult to both interpret and enforce and thus may not ensure the outcome you want. In addition, wills are intended only to transfer your assets according to your wishes and are therefore meant to have a limited life span.

If your goal is to keep some or all of your land undeveloped, it is recommended that you consider placing a conservation easement on the land (see "Permanent Land Use Options") or giving the land to a conservation organization, such as a land trust or a state conservation agency (see "Beneficiaries").

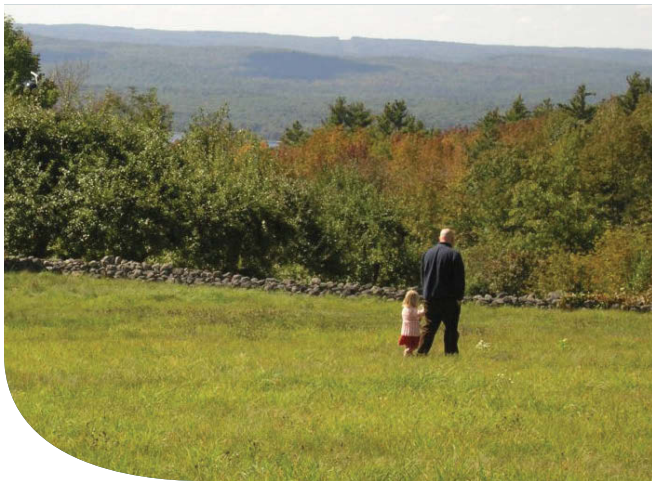


Photo: Sean Pollock

Sharing Your Goals in a Legacy Letter

If you are interested in keeping your land undeveloped, but donating it to a conservation organization or placing an easement on it doesn't meet your goals, an informal option would be to communicate your intention for the future of the land through a legacy letter.

A legacy letter—which can be attached to your will to provide additional information—is written to your beneficiaries and is intended to share your knowledge, beliefs, values, and hopes. A legacy letter is not a formal legal document, but it can be very helpful to your beneficiaries in understanding your wishes and providing guidance to their future decisions about the land. Some things you may consider including in your letter are

- the history of the land, including the story of how you came to own it
- the ecological, historical, or cultural value of the land
- favorite memories of the land
- aspects of the land you enjoy most
- work you have accomplished on the land
- your hopes for what will happen to the land

Don't worry if you're not a good writer—this isn't an English paper! The goal of the letter is to pass your legacy on to your beneficiaries in your own words.

USING THE TYPE OF LAND OWNERSHIP TO DETERMINE THE FUTURE OWNERS

CURRENT OWNERSHIP

A great place to start your conservation-based estate planning is by reading your deed, which lists your current form of ownership, and understanding the implications of this form of ownership. An estate planning attorney, land trust, or forester can help you find your deed. Without estate planning, the form of ownership listed on your deed will determine who will get your land when you pass away—and it might not be what you want to have happen with your land. If your current form of ownership doesn't meet your needs for passing on your land, meet with an estate planning attorney to learn about other options for the ownership of your land.

If you do want your family to continue owning the land, you will need to choose the form of legal ownership that determines who controls the land, how it is transferred, how it is taxed, and how liability will be shared, among other things. Determining which form of ownership is best for you depends on several factors, including the number of people who will be sharing ownership, liability concerns, how income from the land is taxed while you are alive, and how the land will be taxed when it is transferred. There is a range of land ownership options; bringing your goals, or those of your family, to an estate planning attorney with land conservation experience is a great way to sort out which type of ownership will be the best fit.

Photo: Bill Warren

Land Ownership Agreements for Direct Forms of Ownership

Land ownership brings with it many benefits (recreational use, income from forest management) and responsibilities (taxes, maintenance). These benefits and responsibilities can be complicated when there are multiple owners in a direct form of ownership. To reduce the likelihood of disputes, landowners who co-own land may want to consider a land ownership agreement. A land ownership agreement is a contract between two or more persons who own a piece of property together. The agreement typically describes each party's

- right to use the land
- obligation to pay taxes
- responsibilities for maintenance of the property
- entitlement to profits
- transfer rights in the property

A land ownership agreement can outline the rights and responsibilities of owners in an effort to avoid conflict and increase the enjoyment of ownership. An ownership agreement can be a very good way for landowners to establish a workable solution for owning land together and can be used in combination with the forms of direct ownership that result in multiple owners. It can be a legal document drafted by an attorney or something simple that documents how a property is to be used as well as expectations for sharing costs and benefits in order to avoid disagreements over time.

FOR A DESCRIPTION OF DIRECT OWNERSHIPS, SEE PAGE 12.

Direct ownerships are those in which a person or persons own the land directly. The names of the people who own the land are on the deed.

Ownership Type	Features	Pros	Cons
One individual owner (as shown on deed)	Upon death of individual owner, property passes according to will.	• Simple, easy to set up in deed or will.	• Property goes through probate. • No liability protection during owner's life.
Joint tenant with right of survivorship (two or more names on deed)	Upon death of one owner, property automatically transfers to surviving joint owner(s).	• Simple, easy to set up in deed or will. • No probate until death of last owner. • Overrides will.	• Overrides will unless joint owner "breaks" joint tenancy during life. • No liability protection during owner's life.
Tenants by the entirety (only spouses' names on deed)	Ownership by two spouses, with right of survivorship; so, like joint tenants, property automatically transfers to surviving spouse.	• Simple, easy to set up in deed or will. • No probate until death of second spouse. • Cannot be "broken" by one spouse except upon divorce. • Overrides will.	• Only available to spouse. • No liability protection during owner's life.
Tenants in common (two or more names on deed)	Default form of ownership for multiple owners unless otherwise stated on deed.	• Simple, easy to set up in deed or will. • At death of one owner, that owner's interest passes by will. • Owners may own different fractional interests.	• Unless understood by owners, may surprise survivor that decedent's interest passes by will. • No liability protection during owner's life.

DIRECT OWNERSHIP

Direct ownerships are those in which a person or persons own the land directly. The names of the people who own the land are on the deed.

Direct ownerships are the most common form of land ownership. They are easy to set up and maintain, and all forms of direct ownership can be combined with land conservation tools. However, they do not provide protection for liability or a mechanism for the gradual transfer of land. Following are some examples of direct ownership, along with short descriptions of how land owned in these forms is passed on:

- **One individual owner.** Ownership of the land is by a single person, whose name is listed on the deed. Upon the death of the owner, the land is transferred according to the terms of his or her will.
- **Joint tenant with right of survivorship.** Ownership of the land is by two or more persons, and the deed states that they own jointly or jointly with right of survivorship. Upon the death of an owner, the land automatically passes to the surviving owner or owners. This automatic transfer overrides will.
- **Tenants by the entirety**. Ownership of the land is by spouses (and spouses only), and the deed states that they own as tenants by the entirety. Upon the death of a spouse, the land automatically passes to the surviving spouse. This automatic transfer overrides will.
- **Tenants in common**. Ownership of the land is by two or more persons, which may be in specific shares. If a deed does not state that the persons listed own jointly or as tenants by the entirety, then they own as tenants in common. If one person dies, his or her share passes according to the terms of his or her will, creating exponentially larger and more complicated ownerships as each owner's share gets passed on to multiple heirs. As a result, making decisions about the land can become extremely difficult.

The various types of land ownership can be divided into two types: direct and indirect.

Indirect ownerships are those in which land is owned by a legal entity rather than by a person.

Ownership Type	Features	Pros	Cons
Limited Partnership	• Formed by agreement. • At least one general partner required, others may be limited partners. • Because property is owned by limited partnership, no change in deed at death; instead, partnership interests transfer by will or lifetime gift. • Limited partnership can exist forever.	• Ownership interest may be transferred without deed. • Offers liability protection to limited partners. • Spells out agreement between partners–very flexible.	• More complex. • Annual reporting to IRS and state. • General partner does not get liability protection. • May be annual fee to state.
Trust	• Formed by agreement created by donor, naming trustee and one or more beneficiaries. • Because property is owned by trust, no change in deed at death. • State law may limit length of existence of trust.	• Trustee manages for benefit of beneficiaries. • Usually offers liability protection to beneficiaries and trustee. • Trust instrument spells out duties of trustee and rights and benefits of beneficiaries. • No annual fee.	• More complex. • Annual reporting to IRS and state. • Income held in trust that is not passed out to beneficiaries likely taxed at higher rate.
Limited Liability Company (LLC)	• Formed by agreement. • Usually consists of member(s) and manager(s). • Because property is owned by LLC, no change in deed at death; instead, ownership interest usually transfers by will or lifetime gifts.	• Ownership interest may be transferred without deed. • Offers liability protection to all members. • Operating agreement spells out agreement between members—very flexible.	• More complex. • Annual reporting to IRS and state. • Annual fee to state.

INDIRECT OWNERSHIP

Indirect ownerships are those in which land is owned by a legal entity rather than by a person.

Indirect ownerships can be more complex to set up, but they do bring with them opportunities to protect individuals from liability, as well as the ability to gradually change or transfer the ownership, which can offer important tax benefits. Following is a list of some of the most common indirect forms of land ownership that families can use to achieve their goals:

- **Limited partnership**. A limited partnership is an organized entity for which income and loss go on the owners' personal tax returns. Taxes and accounting for limited partnerships are relatively simple, but they do require annual reporting to the IRS. Ownership is transferred by interest instead of through a deed, but when one partner dies, the partnership usually terminates unless the remaining partner(s) agree to maintain it.
- **Trust**. There are many kinds of trusts and reasons for setting them up. In general, trusts operate in a top-down fashion in which the creator, usually the landowner, names a trustee, who manages the assets and must act as directed and in the best interests of the trust's beneficiaries. The beneficiaries are those named in the trust who will be receiving assets from or otherwise benefit from the trust. The way in which the land will be transferred, the timing of the transfer, and how decisions will be made about the land can be written into the trust. Other common reasons for creating a trust include avoiding the cost and delays of probate, assigning a trustee to run your affairs if you are unable to do so, reducing or eliminating estate taxes, and keeping your estate private.

  Some states limit the number of years that a trust can stay viable, so while trusts can offer a good option for families, they are not a permanent solution. The trustee has a responsibility to protect the financial value of the assets in the trust, which may make it difficult to permanently conserve land in a trust, since permanent conservation naturally reduces the value of the land. If permanent land conservation is a goal now or in the future, landowners should include that goal as part of the organizing principle of the trust.
- **Limited liability company (LLC)**. When choosing to use an LLC, land ownership is transferred to the LLC, and the rules that run it are put into an operating agreement and agreed to by all initial members. The LLC is governed by a manager for the benefit of all members. Shares of ownership can be transferred between members by gift or by sale, as determined in the operating agreement. The LLC can be used

to gradually move ownership from one person to another or between generations. This gradual transfer of ownership can help minimize taxes and provides a mechanism for accommodating the changing needs and life circumstances of members. As the name suggests, limited liability companies protect all owners from liability. Unlike trusts, LLCs can be maintained in perpetuity and amended by members over time, providing a long-term strategy for land ownership and decision making. In addition, land owned as an LLC can be put into permanent conservation. It should be noted, however, that there is an annual cost for maintaining an LLC.

DETERMINING THE FUTURE USE OF YOUR LAND

A second important question to ask yourself is if you would like to control the use of your land in the future to ensure that some or all of it remains in its natural state. You can determine the future use of your land either temporarily or permanently. A forest management plan can help guide the stewardship of the land in the future. Current use programs are an example of a temporary option for determining future land use. Permanent land conservation can ensure that your land will never be developed or subdivided.

LAND STEWARDSHIP ACTIVITIES

Forest Management Plans

Make sure to pass on to your children your knowledge of the land and its past management. Also communicate your goals for the property and how they have been implemented in the management of the land. You may also want to provide information about the people you have worked with and what programs your land may be enrolled in. If you have a formal forest management plan, share it with your family and use it as you develop your estate plan. If you develop a forest management plan after you've developed your estate plan, reference key elements from your estate plan—such as a conservation easement—in your forest management plan. Communicating this information to your family can help them become good stewards of the land.

If your family does not already have one, an important professional to contact regarding your land's management is a forester. A forester is a professional who can help you evaluate your land management options, including determining the value of your timber for a land appraisal. See the "Resources" section on the back cover for information on how to contact a forester working near you.

A **service forester** (sometimes called a county or district forester) is a public employee who can help you explore your forest management options and navigate the benefits and requirements of the current use program.

TEMPORARY LAND USE OPTIONS

Current Use

Paying the property taxes on the land may be an issue for your family. Current use tax programs give landowners an opportunity to significantly reduce their property taxes in exchange for keeping land undeveloped and producing public benefit. Although these programs do not typically provide permanent protection for your land, they make owning forest and farmland more affordable and can be used in combination with other land conservation tools. Contacting a forester can also be a good way to learn more about current use tax programs. See the "Resources" section on the back cover for information on the current use program.

PERMANENT LAND USE OPTIONS

Conservation Easement

A conservation easement (CE) is a legal agreement that extinguishes some or all of the development rights of the land forever but allows other rights—such as farming, forestry, and recreation—to continue, all while maintaining your ownership of the land. A conservation easement is a flexible tool that can be placed on all or designated parts of your land, allowing you to reserve house lots in order to provide financial value or housing options for your family. Some CEs allow public access, whereas others do not; this usually depends on your preference, which organization you work with, and whether you are receiving funds for your CE.

A CE can be sold if the land has exceptional ecological or historical value. Alternatively, it can be donated, providing the landowner with a tax deduction for a charitable gift. Since the land can no longer be developed, a CE lowers its value, which can help lower your taxable estate, possibly even dropping it below the estate tax threshold. Donating an easement can also reduce income tax burden. In these cases, landowners are required by the IRS to have the land appraised by a qualified independent appraiser to determine the value of the deduction. Both sold and donated CEs often come with costs for surveys, appraisals, and stewardship donations to ensure that the terms of the easement are monitored and enforced in perpetuity.

Your heirs can donate a CE within nine months of your death, which can provide tax benefits to your estate, meeting your goal of keeping some or all of your land in its natural, undeveloped state and providing financial benefits to your heirs. As previously discussed, before you include the donation

Trust vs. Land Trust

It is common for people to confuse a trust and a land trust. A trust is a legal entity you create to achieve your estate planning goals, whereas a land trust is a nonprofit organization that helps landowners reach their conservation goals. A trust does not protect your land unless provisions are specifically spelled out in it.

You can find a land trust in your region at *findalandtrust.org.*

Photo: Norm Eggert

of a CE in your will, be sure to meet with the conservation organization to be sure it is willing to accept the CE.

Donating or Selling Land

Land can be permanently protected by donating it or selling it to a qualified conservation organization, such as a land trust, a state conservation agency, or a town. Donations of land may provide significant tax advantages as a charitable gift.

Bargain Sale

Landowners can sell their land or CE at a price below its fair market value. The difference between the appraised market value and the sale price to a qualified conservation organization, such as a land trust or a state conservation agency, is considered a tax-deductible charitable contribution, providing some income and potentially some tax benefits.

Bequest

A donation of land or a CE through your will is another way to ensure your land's permanent protection and potentially reduce your estate tax burden. You can change your will at any time, and a bequest does not become effective until your death. This is a good approach if you need to keep the financial value of your property in reserve in case of unexpected medical bills or other needs but want to be sure the land will be conserved if you do not need to sell it during your lifetime.

Life Estate

Landowners sometimes negotiate a gift or sale of the property while reserving the right to occupy and use the land for life. In these cases, control of the property automatically transfers to the conservation organization upon the death of the landowner. The gift of a property with a reserved life estate can qualify the donor for a charitable deduction based on the value of the property donated and the value of the reserved life estate, which is based on the donor's age. Landowners are responsible for upkeep and all management costs during their lifetime.

Limited Development

Limited development is an option that protects the majority of the land while a small portion is sold or maintained by the landowner for future development. In a limited development scenario, the areas with the greatest conservation value are protected through one of the tools previously discussed, while other less sensitive areas of the land are set aside for future development.

Photos: iStockphoto/Chris Schmidt

How Much Is This Going to Cost?

Estate planning is not cheap; however, your estate will likely incur costs if you do nothing. Estate planning can also help save money by reducing taxes. By planning in advance, you will have peace of mind in knowing that your land will be taken care of in the future. Costs go up the more indecisive you are and the more complex the solutions needed, so try to come to as much of a decision as possible before bringing in more costly experts, like attorneys.

Ask friends and neighbors for referrals, and don't be shy about asking professionals for an estimate before beginning to work with them.

FINDING A CONSERVATION ORGANIZATION

Many land conservation organizations seem exactly alike at first glance, but their missions and land management philosophies can vary greatly. State conservation agencies or land trusts achieve their mission, in part, through land conservation. Your property's location, size, and natural resources all help determine which conservation organizations may be interested in working with you to conserve your land. If you do decide to move forward with land conservation, it is important that the organization you work with shares your goals and personal philosophy about land and land management. To find a land trust or public conservation agency working in your town, visit *findalandtrust.org*.

Options for Keeping Some or All of Your Land in Its Natural State

	Description	Tax Implications	Duration	Maintains Your Ownership
Current Use	A state program that reduces your property taxes in exchange for actively managing your forestland	Reduces property tax	Temporary (in effect until the landowner does something to disqualify the land)	Yes
Conservation Easement	A voluntary agreement that extinguishes certain uses—typically development, subdivision, and mining—while allowing others—such as forestry and farming	If donated, provides charitable deductions on income taxes and can lower the overall taxable value of your estate; if sold, you may incur capital gains taxes	Permanent	Yes
Bargain Sale	The sale of your land for a price lower than its fair market value	Income from the sale is taxable, but the difference between the appraised market value and the sale price is a charitable deduction if sold to a land trust or government agency	Permanent	No
Donation	Donating your land to a land trust, a conservation agency, or your community	Provides a charitable deduction for income taxes, and lowers the taxable value of your estate	Permanent	No
Bequest	Donating your land or a conservation easement through your will	Lowers the taxable value of your estate	Permanent	Yes
Life Estate	Transfers real estate while maintaining your right to use the property for the rest of your life	Provides a charitable deduction for income taxes, and lowers the taxable value of your estate	Permanent	Gives you the right to use the property until your death
Limited Development	Carving off a portion of the property for sale or development and conserving the rest	May create both capital gains for the sale and charitable deductions for the conservation portion	Permanent	No

Taxes

It has been said that the only sure things in life are death and taxes; estate planning is about preparing for both. Land is likely one of the most valuable assets in your estate. And due to the historic rise in real estate values, your land's value may be greater than you think.

The amount and types of taxes your estate may face depend on the value of your land, the form of ownership your land is held in, and how your assets—including your land—are transferred to your family. The goal, of course, is to pass on your assets in a way that meets your family's goals while minimizing the amount of taxes for which your estate becomes responsible.

A certified public accountant (CPA) is a licensed professional who understands tax codes and specializes in helping individuals prepare tax returns. A CPA can develop and evaluate strategies designed to fulfill your goals while minimizing taxes.

Following is a summary of the various taxes that may affect you as a landowner as you move forward with estate planning. Remember that the laws that determine these taxes can change. The descriptions do not represent the law in any particular year but are a simple explanation of the taxes that may be involved when land is transferred between people or generations of a family. Speak with a CPA or a tax attorney who is familiar with land and its conservation for information specific to your situation.

TAX CONSIDERATIONS

FEDERAL AND STATE ESTATE TAXES

These are taxes on your estate if its value exceeds a certain threshold. Federal and state tax thresholds often change from year to year. One opportunity to lower the value of your estate is through land conservation tools.

GIFT TAXES

This is a federal tax incurred on gifts given while you are living. You can give a certain amount per year without triggering this tax. Giving under the taxable limit can be a useful way of transferring ownership or interest in your land slowly while avoiding taxes. If you give more than the limit annually, the excess is applied toward your lifetime gift-tax exclusion. If at any point the gifts you gave during your lifetime, or left in your estate, exceed that exclusion, the donor generally pays gift tax on the excess amounts. Gifts of any amount transferred between spouses are allowed tax-free.

CAPITAL GAINS TAXES

This tax is assessed when you sell capital assets, including land. Capital gains tax is applied to the value that your land and other assets have appreciated to over time. For example, if you bought your land for $50,000 and it is now worth $200,000, the capital gains tax is applied to the increase in your land's value of $150,000. Placing a conservation easement on your land is one effective way to lower its sale price and therefore the capital gain from the sale of your property. However, the sale of a conservation easement (see page 14) or a bargain sale (see page 16) can also trigger capital gains liability.

FEDERAL INCOME TAXES

This tax is based on your income. Federal income tax can be reduced through a charitable donation, a bargain sale of land, or a conservation easement by providing you with a charitable donation.

PROPERTY TAXES

As land values and assessments increase, local property tax burdens can be difficult for families to meet. Conservation easements and current use tax programs provide opportunities to reduce property taxes on your land.

Closing Thoughts

The decisions (or lack of decisions) you make about your land will have financial and personal impacts long beyond your passing. Your land is an important but flexible asset that can be used to meet a wide variety of personal goals. Estate planning can be an intimidating and sometimes lengthy process, so don't delay—take a step today to begin your estate planning process. Formalize your wishes for your land to the maximum extent possible, but get started now. Don't leave the future of your land and your family's relationship to chance.

Once you have made decisions and created a plan, consider it a living document that will need to be revisited every five to ten years or upon major life changes.

Resources for Wisconsin Landowners

Reduce property taxes
Wisconsin Managed Forest Law program:
dnr.wi.gov and search keyword "MFL"

Set up a free visit with your local DNR forester
dnr.wi.gov and search keyword "Forestry Assistance Locator"

Wisconsin Woodland Owners Association (WWOA)
wisconsinwoodlands.org

Find a land trust working in your community
Gathering Waters: Wisconsin's Alliance for Land Trusts'
gatheringwaters.org

Information on estate and succession planning
The University of Wisconsin-Extension
woodlandinfo.org

The National Timber Tax Website
timbertax.org

UW Extension