

# WISCONSIN WORKING LANDS INITIATIVE

## DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION

### Farmland Preservation Zoning

#### **FARMLAND PRESERVATION ZONING.**

Farmland preservation zoning standards under the WLI give county and local governments more flexibility, consistent with effective farmland protection.

Tax credits for land under Farmland Preservation zoning:

- \$10/acre if under zoning and located in an Agricultural Enterprise Area
- \$7.50/acre if the land is under zoning

#### **BENEFITS OF WORKING LANDS INITIATIVE (WLI)**

- Increase available income tax credits
- Establish new standards to increase local flexibility and reduce land use conflicts
- Improve consistency between local plans and ordinances
- Simplify the certification process and streamline state oversight
- Ensure compliance with state soil and water conservation standards

#### **Must a county or local government have a farmland preservation zoning ordinance?**

The new law does not change or limit the current authority of counties and local governments to adopt, amend, repeal and enforce zoning ordinances of their own choosing. A county or local government may voluntarily decide to adopt a new farmland preservation ordinance or update their existing ordinance. Only farmers covered by a certified farmland preservation zoning ordinance that meets WLI standards may claim the tax credit.

#### **When must farmland preservation zoning ordinances be updated and re-certified?**

Updates must be certified between December 31, 2012 and December 31, 2016 unless the current certification specifies a later date. Ordinance re-certification will be according to a schedule which follows the county Farmland Preservation Plan certification by one year. Counties with the most development pressure, as determined by the change in county population growth per square mile from 2000 through 2007, are required to complete updates first. Farmers covered by an ordinance that is not re-certified will not be eligible for the tax credit.

#### **Is a certified ordinance all that is required for farmer tax credit eligibility?**

In order to claim the tax credit, farmers must meet all of the following requirements:

- Farm located in farmland preservation zoning district designated in the certified ordinance
- "Gross farm revenues" must be at least \$6,000 during the relevant tax year (or at least \$18,000 during the last 3 years including the relevant tax year)
- Property taxes on the farm for the relevant tax year paid by claimant
- Farm must be in compliance with state soil and water conservation standards

#### **When can I claim the income tax credit under the WLI and what acreage qualifies?**

The new farmland preservation tax credit will first become available for the 2010 income tax year (tax paid in 2011). Under farmland preservation zoning, a farm owner may claim tax credits on their proportionate share of the acreage located in a certified farmland preservation zoning district.

## Farmland Preservation Zoning

### **W**hat does our updated ordinance need for re-certification?

The ordinance must be substantially consistent with the county's certified "farmland preservation plan." Land included in a farmland preservation zoning district must be part of a "farmland preservation area" identified in the county plan. The ordinance must designate and clearly map farmland preservation zoning districts in which land uses are limited according to WLI standards. The ordinance must also identify the land uses allowed in each farmland preservation district, including permitted and conditional uses.

### **W**hat is the process for certification of updated or new zoning ordinances?

Ordinances that meet all requirements are certified for up to 10 years. Ordinances may be certified by the state based upon county self-certification, although the state may review and independently verify the county's certification. Self-certification must include that the ordinance is reasonably consistent with the county's certified farmland preservation plan and that the ordinance complies with other applicable requirements.

### **W**hat land uses are allowed?

Local authority to determine allowed used is maintained, as long as those uses are allowable under the new WLI zoning ordinance standards. The new standards increase the flexibility of local governments. Key changes under the new law:

- Permitted use includes "agriculture-related uses"
- No minimum lot size requirement
- Some limited non-farm residential development allowed
  - Must be constructed as a residential "cluster" on contiguous parcels
  - Must meet a ratio of non-farm residential acres (house and lot) to farm acreage of no greater than 1:20
  - May not have greater than 4 dwelling units in non-farm residences (nor more than 5 dwelling units in residences of any kind)
  - May not convert prime farmland or impair agricultural use of other protected farmland

### **C**an land in identified farmland preservation zoning districts be rezoned?

A local government may still rezone land out of a farmland preservation zoning district certified under a farmland preservation zoning ordinance. The local government must show that the rezoned land is better suited for another use, and that this use is reasonably consistent with the local comprehensive plan and the certified county farmland preservation plan. The rezoning may not impair or limit agricultural use of surrounding land zoned or legally restricted to agricultural use.

The landowner must pay a "basic" conversion fee for the rezoned acreage, equal to 3 times the Class I assessed cropland value, before the rezoning may take place. The zoning ordinance may impose a "supplementary fee" in addition to the basic conversion fee. Local governments must annually report the total acres rezoned during the preceding year, and forward the basic conversion fees collected, which shall be deposited to the Working Lands Trust Fund. The county or local government may keep any supplementary fees that it collects, and may use those fee revenues for farmland preservation planning, zoning and conservation compliance work.

