

# Conservation Options for Landowners



## Conservation Easements

A conservation easement (sometimes also referred to as a conservation restriction) is a legal agreement between a landowner and a land trust or government agency that permanently limits uses of the land in order to protect its conservation values. It allows you to continue to own and use your land and to sell it or pass it on to heirs.

When you donate a conservation easement to a land trust, you give up some of the rights associated with the land. For example, you might give up the right to build additional structures, while retaining the right to grow crops. Future owners also will be bound by the easement's terms. The land trust is responsible for making sure the easement's terms are followed on a long-term basis.



Conservation easements offer great flexibility. An easement on property containing rare wildlife habitat might prohibit any development, for example, while one on a farm might allow continued farming and the building of additional agricultural structures. An easement may apply to just a portion of the property, and need not require public access.

A landowner sometimes sells a conservation easement, but usually easements are donated. If the donation benefits the public by permanently protecting important conservation resources and meets other federal tax code requirements it can qualify as a tax-deductible charitable donation. The amount of the donation is the difference between the land's value with the easement and its value without the easement. Placing an easement on your property may or may not result in property tax savings.

Perhaps most important, a conservation easement can be essential for passing land on to the next generation. By removing the land's development potential, the easement lowers its market value, which in turn lowers estate tax. Whether the easement is donated during life or by will, it can make a critical difference in the heirs' ability to keep the land intact.

To meet IRS guidelines for a conservation easement, the land must have a conservation purpose under one of the following qualifications:

- **the preservation of land areas for outdoor recreation by, or the education of, the general public**
- **the protection of a relatively natural habitat of fish, wildlife, or plants, or similar ecosystem**
- **the preservation of open space (including farmland and forest land) where such preservation is — For the scenic enjoyment of the general public, or**
- **pursuant to a clearly delineated Federal, State, or local governmental conservation policy, and will yield a significant public benefit,**
- **the preservation of an historically important land area or a certified historic structure.**

# Conservation Options for Landowners



## Land Donation

Donating land for conservation purposes is truly one of the finest legacies a person can leave to future generations. It may be the best conservation strategy for you if you do not wish to pass the land on to heirs; own property you no longer use; own highly appreciated property; have substantial real estate holdings and wish to reduce estate tax burdens; or would like to be relieved of the responsibility of managing and caring for land.

Donating land releases you from the responsibility of managing the land and can provide substantial income tax deductions and estate tax benefits (while avoiding any capital gains taxes that would have resulted from selling the property). Most important, if the land is donated because of its conservation value, it will be protected. (Although our focus here is on conservation land, commercial and residential properties can also be donated to a land trust, with the understanding that the organization will sell the land to support its conservation work.)

An outright donation is not the only way to give land. You can continue to live on the land by donating a remainder interest and retaining a reserved life estate. In this arrangement, you donate the property during your lifetime, but continue to live on and use the property. When you die (or sooner if you choose), the land trust gains full title and control over the property.



By donating a remainder interest, you can continue to enjoy your land and may be eligible for an income tax deduction when the gift is made. The deduction is based on the fair market value of the donated property less the expected value of the reserved life estate.

## Greenway/Trail Easement

You may choose to allow for a portion of your property to be used for a greenway or natural trail by granting an easement on a specific section. The easement needed for greenways and trails is a minimum 20 feet wide with an ideal easement of 40 feet wide. You retain full ownership of your property when you provide a greenway/trail easement and may see a tax benefit for your donation.



Legacy Parks Foundation, or the governmental parties which we work with to construct the greenway or trail, are responsible for all trail construction and maintenance and liability on the easement property.