



Bayfield Regional Conservancy

Conservation Easements

What is a Conservation Easement?

A conservation easement is a voluntary legal agreement between a landowner and land trust or government agency that protects the conservation values of a piece of land by permanently limiting its present and future uses. This uniquely flexible conservation tool lets a landowner retain ownership and use of their property. An easement can be established to protect all or part of a property that has significant agricultural, historic, scenic or wildlife habitat resources. Millions of acres across the country have been protected in this way. Land trusts are among several nonprofit land conservation organizations traditionally granted conservation easements by landowners with a love of the land and an interest in protecting it in perpetuity.

Who is Allowed by Law to Hold a Conservation Easement?

A qualified nonprofit, tax-exempt conservation organization - such as a land trust - may hold a conservation easement, as can federal, state or local government entities. Land subject to a conservation easement remains privately owned and managed by the landowner, but enforcement of the easement restrictions becomes the permanent responsibility and legal right of the land trust.

How does a Conservation Easement Work?

When you own land, you also “own” many rights associated with it. These property rights include the rights to harvest timber, build structures, grow crops, and so on (subject to zoning and other restrictions). When you grant a conservation easement to the Conservancy, you permanently give up some of those rights and retain others. For example, you might give up the right to build additional residences while retaining the right to grow crops. Future owners are also bound by the easement’s terms.

Conservation easements can be used to protect a wide variety of land including farms, forests, wildlife habitat, and properties with scenic views. Conservation easements are drafted in a detailed legal agreement that outlines the rights and restrictions on the owner’s uses of the property and the responsibilities of the landowner and the Conservancy.

Who Decides What Restrictions and Uses are Allowed?

The landowner and the land trust or other nonprofit, tax-exempt conservation organization decide together what's needed to protect the land's conservation value while, at the same time, meeting the financial and personal needs of the landowner and their family. This is a land-protection option known for its flexibility. For example, an easement on property with rare wildlife habitat may limit or further prohibit development of any kind while a farmland easement would allow continued farming and the building of limited agricultural structures.

Does a Conservation Easement Grant Public Access to Land?

No. However, public access to protected land can be a stipulation of a conservation easement agreement if mutually acceptable to the landowner and the land trust.

What Effect does a Conservation Easement have on a Landowner's Ability to Sell, Develop or Pass the Land to his or her Heirs?

While restrictions defined in a conservation easement document run with the property forever, land protected in this way can be sold, passed to heirs or otherwise transferred at any time. Land-use restrictions may affect only certain portions of a property, significant woodland or wetland areas, for example, but allow some development on the remainder. Transfer of ownership does not affect the integrity or enforceability of the permanent easement. The landowner who establishes a conservation easement ensures that his or her careful stewardship of the land is a legacy that lasts.

What are the Financial or Tax Benefits of Donating a Conservation Easement?

Donation of a conservation easement to a qualified conservation organization is treated as a charitable deduction for tax purposes as long as it meets federal tax code requirements.

Federal and state income tax benefits vary with each easement but, in general, to qualify as a deduction, the easement must serve conservation purposes by preserving natural habitat, historic sites, unique scenic landscapes, wildlife corridors or connections to other protected parcels, public recreation or education areas, or open spaces near land under intense development pressure.

Federal estate taxes can be affected by the donation of a conservation easement. Since the easement reduces the market value of the property, its development potential is likewise reduced, lessening the impact of inheritance taxes and allowing the heirs to retain property that might otherwise have to be sold. Reduction in the fair market value of land through a conservation easement also allows a landowner to give more land away in any one year without creating a gift tax obligation or may help reduce the amount of gift tax owed.

Land subject to a conservation easement can qualify for a reduction in assessed valuation, thereby reducing property taxes on the land and land value. Under Wisconsin law, local property tax assessors are required to consider a conservation easement when setting the taxable value of the property.

More information can be found on the Tax Benefits handout.

How is the Value of a Conservation Easement Determined?

The value of the gift, for tax purposes, is the difference between the property's full market value before and after donation of the conservation easement as determined by a qualified land appraiser.

How is a Conservation Easement Administered?

When the Conservancy receives a conservation easement, it takes on the permanent responsibility and legal right to enforce the terms of the easement. We monitor easements by inspecting the land annually and maintaining communications with landowners about future plans in order to avoid conflict with the easement. If a future owner or someone else violates the easement – for example, by erecting a building that the easement doesn't allow – the Conservancy will take action to have the violation corrected, including going to court if necessary. The land trust has the right and responsibility to take legal action, if necessary, to enforce easement restrictions. A contribution to the Bayfield Regional Conservancy's Stewardship Restricted Fund is made when the conservation easement agreement is signed. This funding is used to cover the expenses of monitoring and stewarding the easement agreement into the future.

Additionally, a contribution to a restricted Legal Defense Fund is made when the conservation easement agreement is signed so the Conservancy can enforce compliance as necessary in the future. Landowners are asked to help provide these funds, or to help fundraise to do so.

Lasting Protection for the Land

Protecting significant land through a conservation easement provides a guarantee of accountability. Unlike simply attaching deed restrictions to a property title, donating a conservation easement provides the certainty that a landowner's desire to preserve the land's conservation values is honored far into the future by an organization dedicated to the principles of saving precious resources.



A Landowner's Story : Protecting Land One Landowner at a Time

In 2014, Roger Dreher set up a conservation easement on his 15 acres along Lake Wilipyro. In 1983, he purchased his first parcel followed by an adjacent parcel in 2013 to protect the area from further development. He then realized that while he could protect it as long as he was there, it wouldn't be for the long term. A conservation easement with BRC has helped him to protect this land forever, while also actively managing its forests. According to Roger, "Inland lakes can best be protected against water quality degradation and loss of habitat and scenic beauty when individual owners step up and eliminate the possibility of piecemeal development in the future."