

# Conserving Your Land

Voluntary land conservation is an essential part of preserving our local landscape, wildlife, and water supply. It can be your most lasting legacy.

Land conservation is legally and financially complex. The decision to conserve should be made with the support of your heirs, who will be financially affected. The process takes considerable time, and sometimes considerable funding, to carry out.

First, what is voluntary land conservation? Simply put, it is the legal elimination of the right of a property's present and future owners to develop that property. Any further restrictions upon the use of the property, such as limitations on logging or types of recreation, are optional, and are your decision to include. Conservation land need not be wilderness, although that can be your choice.

Prior to the 1970's, landowners used covenants and deed restrictions to attempt to permanently protect their properties from development. However, after the property changed hands, there typically was no means to permanently monitor the property and enforce the restrictions. This method therefore proved ineffective.

## Voluntary Land Conservation Methods

Today there are two very effective methods used for voluntary land conservation:

**Conservation Easements:** A new deed, called a conservation easement deed, is created that eliminates the development rights in accordance with the relevant state and federal laws and sets forth the purpose of the easement and the allowed and disallowed activities. The deed also names a particular entity as responsible for monitoring and enforcing the terms of the easement deed. That entity is called the easement holder, and it may be a governmental body or a qualified private land trust. It is important to understand that ownership of the land and the ability to sell it remain unchanged. However, the value of the property will be reduced since it is no longer developable. Conservation easements are the most common method of conserving private land. Often there are federal tax advantages to the landowner. Conservation easements are best for people who wish to retain ownership of their land.

**Fee simple purchase:** In this scenario, the land is sold to a qualified conservation buyer, such as a land trust or political entity, who will ensure that the land is never developed. If you sell the property to a conservation buyer, you may realize some income from the sale. If the sale is at a discounted (bargain) price, you may receive

federal tax advantages. However, it is difficult to find conservation buyers for all but the most exceptional properties, so this option is rarely available.

The financial issues involved with land conservation are complex. If you have taxable income, you may be able to realize a federal income tax deduction for the value of the development rights that you donate. Although some funding may be found to pay you for a conservation easement and/or to cover the associated costs, this should be hoped for rather than expected, and will considerably lengthen the process.

There are always costs to these transactions. Generally a survey is required, and legal fees will be incurred. If you wish to pursue tax deductions, you will need a special appraisal to determine the amount you may claim. The easement holder will require a fee to defray the cost of perpetual monitoring and enforcement of the easement. Lastly, the easement holder and MMRG will generally require some of their costs to be paid, since paid staff will be spending considerable time on your project. However, funding can often be found to defray these transaction costs, particularly when the landowner is donating the easement and not expecting any financial return.

Many landowners understandably wish to receive some financial return in exchange for their conservation easement, since they have lowered the value of their property. While reasonable, this is unfortunately not always possible. Most land trusts are nonprofit organizations that rely on donations to cover their expenses. General, it is best to view conservation as a charitable act carried out for ethical reasons. If there were profit in conservation, developers and realtors would be doing it.



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