

Frequently Asked Questions

Land Trusts, Conservation Easements, Benefits of Conservation, What Can I do?

Land Trusts

What is a Land Trust?

A land trust is a nonprofit organization that, as all or part of its mission, actively works to conserve land by undertaking or assisting in land or conservation easement acquisition, or by its stewardship of such land or easements.

Are land trusts government agencies?

No, they are independent, entrepreneurial organizations that work with landowners who are interested in protecting open space. But land trusts often work cooperatively with government agencies by acquiring or managing land, researching open space needs and priorities, or assisting in the development of open space plans.

So, what are the advantages of working with a land trust?

Land trusts are very closely tied to the communities in which they operate. Moreover, land trusts' nonprofit tax status brings them a variety of tax benefits. Donations of land, conservation easements or money may qualify you for income, estate or gift tax savings. Moreover, because they are private organizations, land trusts can be more flexible and creative than public agencies - and can act more quickly - in saving land.

What does a land trust do?

Local and regional land trusts, organized as charitable organizations under federal tax laws, are directly involved in conserving land for its natural, recreational, scenic, historical and productive values. Land trusts can purchase land for permanent protection, or they may use one of several other methods: accept donations of land or the funds to purchase land, accept a bequest, or accept the donation of a conservation easement, which permanently limits the type and scope of development that can take place on the land. In some instances, land trusts also purchase conservation easements.

I first heard about land trusts just a few years ago. Are they new?

Not at all! A very few land trusts have already celebrated their centennials, but most are much younger. In 1950, for example, just 53 land trusts operated in 26 states. Today, more than 1,500 land trusts operate across the country, serving every state in the nation. The Northeast, home of the first land trust, still has the most land trusts - 558, according to LTA's most recent survey.

What has contributed to the huge growth in the number of land trusts?

People are tremendously concerned about the unmitigated loss of open space in their own communities. They see subdivisions supplanting the open spaces where they once walked and hiked, and they want to know how they can gain the power to save the green spaces that make their communities unique. So they turn to land trusts as the local entities that have been set up to conserve land.

How do I start a land trust in my community?

Land trusts are extremely effective vehicles for conserving land. But with more than 1,500 land trusts already in existence, starting a new land trust may not be necessary, timely, or the best approach to achieving your community's conservation goals. Given the time and effort it takes to run a land trust and the long-term commitment needed to protect land in perpetuity, the Land Trust Alliance encourages you to work with an existing land trust whenever possible. If you do decide to establish a land trust here is some additional information.

Conservation Easements

What is a Conservation Easement?

A conservation easement (or 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.

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.

Why should I grant a conservation easement to a land trust?

People execute a conservation easement because they love their open space land, and want to protect their land from inappropriate development while keeping their private ownership of the property. Granting an easement to a conservation organization that qualifies under the Internal Revenue Code as a "public charity" - which nearly all land

trusts do - can yield income and estate tax savings. Moreover, land trusts, some of which are more than 100 years old, have the expertise and experience to work with landowners and ensure that the land will remain as permanent open space.

Are conservation easements popular?

They are very popular. In the 5 years between 1998 and 2003, the amount of land protected by local and regional land trusts using easements tripled to 5 million acres. Landowners have found that conservation easements can be flexible tools, and yet provide a permanent guarantee that the land won't ever be developed. Conservation easements are used to protect all types of land, including coastlines; farm and ranchland; historical or cultural landscapes; scenic views; streams and rivers; trails; wetlands; wildlife areas; and working forests.

How can a conservation easement be tailored to my needs and desires?

An easement restricts development to the degree that is necessary to protect the significant conservation values of that particular property. Sometimes this totally prohibits construction, and sometimes it doesn't. Landowners and land trusts, working together, can write conservation easements that reflect both the landowner's desires and the need to protect conservation values. Even the most restrictive easements typically permit landowners to continue such traditional uses of the land as farming and ranching.

What steps do I take to write a conservation easement?

First, contact a land trust in your community to become acquainted with the organization and the services they can provide. Explore with them the conservation values you want to protect on the land. Discuss with the land trust what you want to accomplish, and what development rights you may want to retain. For example, you may already have one home on your property and want to preserve the right to build another home. That is one provision that must be specifically written into an easement agreement. Always consult with other family members regarding an easement, and remember that you should consult with your own attorney or financial advisor regarding such a substantial decision.

How long does a conservation easement last?

Most easements "run with the land," binding the original owner and all subsequent owners to the easement's restrictions. Only gifts of perpetual easements can qualify for income and estate tax benefits. The easement is recorded at the county or town records office so that all future owners and lenders will learn about the restrictions when they obtain title reports.

What are a land trust's responsibilities regarding conservation easements?

The land trust is responsible for enforcing the restrictions that the easement document spells out. Therefore, the land trust monitors the property on a regular basis -- typically once a year - to determine that the property remains in the condition prescribed by the easement document. The land trust maintains written records of these monitoring visits, which also provide the landowner a chance to keep in touch with the land trust. Many land trusts establish endowments to provide for long-term stewardship of the easements they hold.

Benefits of Conservation

What are the economic impacts to my community of conserving open space?

Many reports have shown that conserving open space in communities around the U.S. attracts jobs, enhances property values, and saves billions in government costs.

Are there tax benefits associated with land protection?

There may be income, estate and property tax benefits for donating your land, donating a conservation easement, or selling the property as a "bargain sale" at below market value. The amount and type of tax benefits depends on a variety of factors, including the legal tool you've used to protect you land, the value of the donation, your income level and the total amount of your estate. Again, you should consult with a financial advisor and/or an attorney to fully understand the tax implications. LTA sells a variety of books and pamphlets that provide basic information on this subject.

What Can I do?

How can I protect my beautiful open space land from future development?

By working with a nonprofit land trust, you can decide the best conservation tool to use to protect your land. You can select from a number of tools, including the outright donation of your property, the donation or sale of a conservation easement that permanently restricts development, the bargain sale of your property, and several other variations. You should always have legal advice before embarking on such a decision.

Someone is about to develop a beautiful piece of land in my community! What can I do to stop it?

The U.S. Department of Agriculture's Natural Resources Conservation Service reports that between 1997 and 2001, 2.2 million acres were lost to development each year (2001 Annual Natural Resources Inventory). The LTA land trust census reports that from 1998 to 2003, local and regional land trusts conserved open space at a rate of about 800,000 acres per year. Many of the nation's land trusts were formed to address this problem – conserving our precious landscapes before they are lost forever to development. However, whether to develop or conserve a particular parcel of land is a complex decision that depends on many criteria and local concerns.

Please note that a land trust must be selective in choosing land-saving projects. Unless the land trust exercises care in choosing its projects, it may find itself stuck with a property or a conservation easement that serves little public interest, is very costly to manage, or does not really fit with the land trust's purposes. A land trust that does not carefully select its projects may open itself to public criticism, credibility problems and even legal problems.

So get to know your local land trust and volunteer your time, support it financially, or even donate land or a conservation easement. That way, you can help your community protect the land that you think is culturally, economically or environmentally important.

Also, you may want to get involved in your state or local planning activities. Planning agencies often provide opportunities for public input on development issues that affect citizens and you can request to be placed on their mailing lists to receive updates on current and future plans for your area. Citizen input can improve the planning process and positively affect future developments that may otherwise be detrimental to the overall health of your community.

Thank you for your interest in saving land!

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