

Land Trust Alliance *Fact Sheet*



Basic Facts and Resources for Landowners

Across America, thousands of people are determined to conserve the places they value. Landowners have a deep connection to their land and know the gifts undeveloped properties provide their communities: clear air and water, fresh food, wildlife habitat, and sheer scenic beauty. All too often these special places disappear forever because of development. Americans who want to conserve their land can turn to land trusts – non profit organizations that work with landowners interested in protecting open space.

What Does a Land Trust Do?

Land trusts protect land directly by buying or accepting donations of land or of conservation easements. They also educate the public and advocate for the need to conserve land. They can help landowners tailor a conservation plan to their individual situation and financial circumstances, and determine the property's conservation values and future ownership.

What types of land can be protected by land trusts?

Land trusts protect a variety of lands, but many concentrate their efforts on:

- Natural habitat for wildlife, fish and plants such as prairies, forests, bluff lands, or wetlands

- Watershed areas like lakeshores, rivers, streams, and other natural features
- Scenic landscapes, particularly those with local community, cultural or historic significance
- Working landscapes like farmland and ranchland have special significance for growing food

How Does a Land Trust Conserve Land?

Land trusts have many options available to them in order to conserve land. Two of the most popular options are fee simple and conservation easements.

Fee Simple

A land trust can conserve land through an outright purchase or donation, in which the landowner sells or grants all rights, title and interest in the property to the land trust. The land trust maintains perpetual stewardship and management responsibility for the land. It owns the land and may grant conservation easements on land it owns in fee to another conservation organization, agency or town.

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 the landowner to continue to own and use the land and to sell it or pass it on to heirs.

A landowner may sell 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 property may or may not result in property tax savings.

Perhaps most importantly, 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.

What Are a Land Trust's Responsibilities Regarding Conservation Easements?

The land trust is responsible for enforcing the restrictions detailed in the easement document. 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.

What are some of the Other Methods Land Trusts use to Protect Land?

- Planned Gifts
- Mutual Covenants
- Deed Restrictions
- Rights of First Refusal
- Conservation Buyer Program
- Registry Programs
- Limited Development
- Like-kind Exchanges

Where Do Land Trusts Get Funding to Conserve Land?

Land trusts draw upon a variety of sources to buy land, or interests in land, using a unique and proactive method called conservation financing. Con-

servation financing utilizes local, state, federal and other funding sources to protect open space and manage growth.

Since the amount of federal funding available for conservation fluctuates annually, local funding is the key to effective, long-term conservation financing. It is important to have local commitment and control. Local funds also help leverage federal, state and private dollars, establishing a predictable and sizable conservation funding stream. State and local governments continue to fund open space acquisition, viewing parks, recreation and habitat as "green infrastructure" important to the quality of life and the economy.

What are the Advantages of Working with a Land Trust?

Land trusts have many advantages as land protection organizations. One advantage of working with land trusts is that they are very closely tied to the communities in which they operate. They can draw on community resources, including volunteer time and skills. Their community orientation is also helpful in selecting and negotiating transactions. They are familiar with the land in the area and often have the trust and confidence of local landowners who may not want to work with entities from outside the area.

Moreover, the nonprofit tax status of land trusts brings them a variety of tax benefits. Donations of land, conservation easements or money may qualify for income, estate or gift tax savings. Properly structured land trusts are exempt from Federal and state income taxes and sometimes from local property and real estate transfer taxes as well.

Additionally, due to the fact that land trusts are private organizations, they can be more flexible and creative than public or government agencies, and can often act more quickly. They can hold and manage land and other assets as a corporation, and are able to negotiate with landowners discreetly.

Steps in the Process of Working with a Land Trust

The following are the basic steps in donating a conservation easement. These may vary from land trust to land trust and region to region.

- 1. Find state or local land trust using the Land Trust Alliance's locator service on the web site.** Click the "Find a Land Trust" link to see contact information for local and national land trusts in your area. You can also contact your state's service centers that like the Alliance deliver services and technical assistance to strengthen local and regional organizations and land trusts that conserve open space. <http://www.landtrustalliance.org/community>
- 2. Landowner and land trust representative(s) meet to discuss landowner's wishes, needs and conservation objectives.** The land trust representative describes the land trust and its policies, and explains how a conservation easement works, appropriateness for the property, and any other conservation options that may be available to the landowner.
- 3. Landowner reviews the material, consults with family members, legal counsel, and/or tax advisors, and indicates an interest in further exploration of an easement.** The Alliance has a list of appraisers, attorneys, and consultants experienced in land conservation to assist landowners. <http://www.landtrustalliance.org/resources/professional-partners>
- 4. A land trust representative visits the property to evaluate its features and the natural and open-space resources, and consults again with the owner on the easement terms and the long-term objectives.** The land trust representative determines whether protection of the property serves the public interest and, (if donated), which of the various IRS public benefits tests is satisfied. The land trust conducts a baseline study to inventory and document the resource values of the property.
- 5. After consulting with family members, advisors, or others, the landowner reaches a preliminary agreement with the land trust on the proposed terms of the easement and property description.**
- 6. The land trust board approves the conservation easement,** making a finding as to the public benefit of the easement and how it fits with the land trust's strategic plan.
- 7. Landowner provides chain of title, certification of title or title report to the land trust.**
- 8. The landowner contacts the lender, if any, to arrange for subordination of mortgage.** The mortgage must be subordinated for the conservation easement to be effective and (if donated) for a tax deduction to be available.
- 9. Landowner determines if certain IRS requirements** for an easement to be tax deductible are met.
- 10. Conservation easement is finalized and signed.**
- 11. The signed easement documents, usually including the Baseline Report, are recorded at the county courthouse.**
- 12. Most land trusts ask conservation easement donors to make a donation to the land trust** to cover the costs of monitoring and enforcing the conservation easement in perpetuity.
- 13. If the landowner intends to take a qualified tax deduction or claim a credit** for the non-cash charitable gift, the landowner is responsible for hiring an independent appraiser to determine the value of the gift.

- 14. The landowner claims a federal income tax deduction for the donation on a special form** with his or her income tax return (Form 8283). Depending on the state, there may be state and local tax savings as well.
- 15. The land trust has the responsibility of monitoring the property once or twice per year to ensure that all of the easement conditions are met.** Strong sentiments and state traditions in favor of private property rights can have a tremendous influence on local land development decisions. For example, elected and appointed officials may find it difficult to adopt more stringent land use controls to protect military installations.



Information Resources

About Land Conservation

Visit the Land Trust Alliance's web site for more information on land conservation www.lta.org/consERVE/have-land-to-save/how-to-CONSERVE-your-land-1

Information for Farmers and Ranchers

www.landtrustalliance.org/consERVE/why-land-conservation/farmers-ranchers

Information about the Tax Benefits

www.landtrustalliance.org/consERVE/have-land-to-save/how-to-CONSERVE-your-land-1/conservation-easements

Finding a Land Trust

To find a state or local land trust, use the Land Trust Alliance's locator service on the web site. Click the "Find a Land Trust" link, and then click your state, and then your county to see

contact information for land trusts in your area. <http://www.ltanet.org/findlandtrust/>.

Publications

"Conservation Options: A Landowner's Guide" - \$7.00 members / \$8.50 regular
iweb.lta.org/Purchase/ProductDetail.aspx?Product_code=LOG

"Preserving Family Lands: Book I" - \$18.00 members / \$23.00 regular
iweb.lta.org/Purchase/ProductDetail.aspx?Product_code=PLF1

"Preserving Family Lands: Book II" - \$18.00 members / \$23.00 regular
iweb.lta.org/Purchase/ProductDetail.aspx?Product_code=PLFII

"Preserving Family Lands: Book III" - \$20.00 members / \$25.00 regular
iweb.lta.org/Purchase/ProductDetail.aspx?Product_code=PLF3

National organizations

American Farmland Trust
www.farmland.org

The Conservation Fund
www.conservationfund.org

The Nature Conservancy
www.nature.org

Trust for Public Lands
<http://www.tpl.org>



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