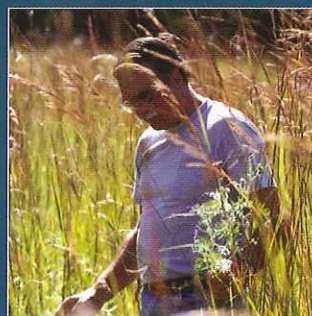
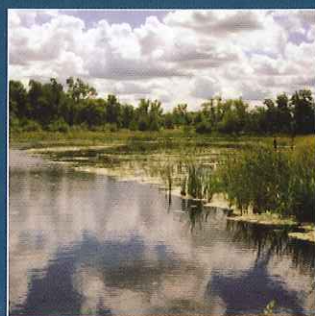
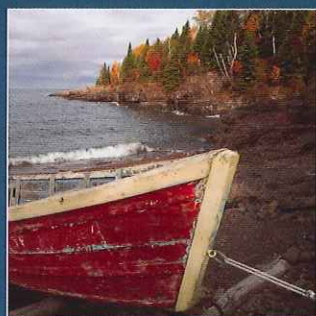
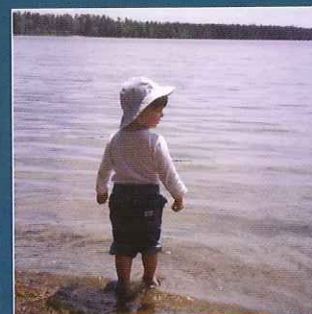
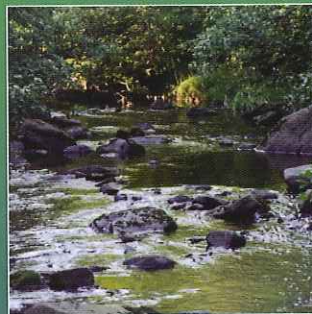


*A Guide to:  
Protecting Land Through Conservation Easements*







## Introduction

*Fueled by the fastest growing population in the upper Midwest, more than a million acres of open farm lands, wild shorelines and natural areas across Minnesota will be converted to residential or commercial uses in the next 25 years. Balancing this growth with the state's tradition of conservation is one of Minnesota's greatest challenges.*

*Fortunately, there are options for land protection—innovative tools and strategies that can help preserve our State's natural and scenic heritage for future generations. One of the most powerful of these tools is a conservation easement, an option which helps protect private land for the public good.*

*Below is a description of how conservation easements work, with a particular focus on the Minnesota Land Trust.*

## What is a conservation easement?

Conservation easements are *individually tailored* agreements through which landowners *voluntarily* limit the use and development of their property to *permanently* preserve its natural or scenic features. These features—called *conservation values*—might include significant wildlife and plant habitat, lake or river shoreline, wetlands or important scenic or cultural lands which benefit the public.

In order to protect these conservation values, certain restrictions on use of the property and the reserved rights of the landowner are detailed in the conservation easement—which is a legal, recorded document. The easement is conveyed to a non-profit conservation organization or government agency qualified to hold and enforce easements. Once the easement is signed by the landowner and the easement holder, the document is filed with the local county land records.

Most conservation easements, including all of those held by the Minnesota Land Trust, are perpetual. They apply to the current owner and all future landowners, permanently protecting the property.

Each conservation easement is unique and is individually crafted to reflect the special characteristics of the land and the particular situation of the landowner.

## What types of land are suitable for an easement?

Conservation easements can be used to protect a variety of lands that have conservation value. The Minnesota Land Trust concentrates its efforts on:

- **Natural habitat for wildlife, fish and plants such as prairies, forests, bluffs and wetlands**
- **Lakeshore, rivers and streams, which are the natural features and systems for which Minnesota is recognized**
- **Scenic landscapes, particularly those with local community significance**

The vast majority of conservation easements are placed on privately-owned lands. However, there are rare occasions when public lands may be protected with a conservation easement. For example, private land encumbered by an easement may be subsequently transferred to a public entity. Or a city or town may seek permanent protection of a particularly sensitive parcel of its own land.

Not all land is suitable for protection with a conservation easement. Some small or isolated properties, lands with limited conservation values or situations in which a landowner desires to retain certain rights that would conflict with an easement's conservation purpose will not warrant a conservation easement.



## *What restrictions may be included in a conservation easement?*

The restrictions set out in each conservation easement are established to protect the specific conservation values that have been identified on that particular piece of land. Restrictions may apply to all of a landowner's property or to only a portion of it. Among other things, easements typically address:

- **Commercial, industrial, or agricultural uses**
- **Limitations on buildings and other structures**
- **Mining and other surface alterations**
- **Roads and utilities**
- **Disturbance of vegetation or water features**
- **Division of the property into multiple parcels**

Restrictions will reflect the unique characteristics of each property. For example, an easement that preserves rare woodland habitat for a rare or endangered species may require the property to be left entirely in its natural state, prohibiting all development. Or, to protect a lake or stream, an easement may allow limited inland construction of buildings or trails while restricting construction or disturbance along the more fragile shoreline. Some easements may permit continued farming or limited timbering, while others may provide for enhancement of wildlife habitat or restoration of native prairie.

All restrictions, reserved rights or permitted uses must not adversely impact the property's conservation values.

## *What rights are retained by the landowner?*

A landowner retains all rights to the property not specifically restricted or relinquished by the easement. The landowner still owns the land and has the right to use it for any purpose that is consistent with the easement.

For example, typically landowners would still have the right to:

- **Sell or transfer the land or leave the land to others in a will**
- **Maintain an existing residence or structures**
- **Manage the habitat or natural areas**
- **Establish trails and otherwise enjoy the property**

## *What are the landowner's responsibilities?*

With a conservation easement, the landowner remains responsible for the land—for its maintenance and upkeep, for paying taxes and for otherwise meeting the typical obligations of land ownership. Conservation easements add only a few further requirements. In addition to complying with the stated restrictions, landowners must:

- **Notify the Land Trust of proposed changes to the property**
- **Allow periodic monitoring visits**
- **Notify the Land Trust when selling or transferring the property**

## *What are the Land Trust's responsibilities?*

The Minnesota Land Trust is obligated to monitor and enforce the terms of each easement that it holds. A representative will periodically schedule monitoring visits to the property to make sure the land continues to be used in accordance with the easement. If necessary, the Minnesota Land Trust will legally defend its easements in the event of a violation. The Land Trust does not otherwise have the right to use the property without the landowner's permission.

## *What are the benefits to a landowner?*

Conservation easements give landowners peace of mind, knowing that their commitment to protecting their land will be forever respected and remain an enduring legacy for their family and their community. There are also several potential financial benefits:

**Income Taxes:** As with other charitable contributions, the donation of a conservation easement under certain circumstances may allow the landowner to claim a federal income tax deduction for the value of the easement. This value must be established by a qualified appraisal. The Internal Revenue Service has specific guidelines regarding conservation easement donations. For example, the easement must be perpetual, the holder must be a qualified conservation organization or government entity, and the property must have specific, significant conservation values that benefit the public.

**Estate Taxes:** A gift of a conservation easement may also reduce estate taxes. Land encumbered by an easement that reduces the overall value of the land will likely reduce the overall value of the landowner's estate, thereby lowering the estate tax obligations. Preserving their land with a conservation easement has helped many families transfer their land to the next generation with its natural features intact.

**Property Taxes:** A conservation easement that reduces the overall value of the land may result in lowered annual property taxes. Adjustments to property taxes will vary between properties and jurisdictions.

**Sale of an Easement:** Occasionally the Minnesota Land Trust has access to funds to purchase a conservation easement. Landowners who sell an easement for less than full market value may also be eligible for tax benefits as described above.

*Landowners should note that the rules governing all of these potential benefits are complex and require the advice of professional advisors.*



## *What are the benefits to the community?*

Conservation easements provide Minnesotans with confidence that our natural assets are safeguarded from inappropriate future development. Easements can help achieve many community objectives such as:

- **Protecting scenic views and community character**
- **Connecting natural areas for wildlife habitat**
- **Maintaining the water quality and overall health of local lakes and rivers**
- **Keeping land on local tax rolls while using fewer public services**
- **Stretching limited public conservation dollars**

## *What is the process for donating a conservation easement?*

The easement donation process can easily take up to 6 months or longer. This allows enough time for the landowner and Land Trust to thoughtfully consider and address all of the complex issues involved. Completing a conservation easement includes:

- **One or more site visits to understand conservation values and other issues**
- **Review of title to ensure clear title, secure legal access and subordination of any mortgages**
- **Development of maps, photographs and other appropriate documentation**
- **Negotiation and final approval of the conservation easement**
- **Completion of a qualified appraisal, if applicable**
- **Signing and recording the conservation easement document**

Once the terms of the easement have been agreed to, a baseline property report is created to document the condition of the land at the time the easement is conveyed. This report will provide the background information against which the property is monitored and evaluated over time in order to determine if there has been a violation of the terms of the easement.

## *What advice should landowners seek before donating an easement?*

The Minnesota Land Trust can provide a great deal of information about conservation easements and other conservation options. However, the Land Trust cannot provide legal or financial advice to landowners. Nor can we guarantee that a landowner's financial objectives will be realized.

Because conservation easements are perpetual and involve a technical area of the law, landowners should consult with their own attorney to review the easement project in detail. If income or estate tax benefits are important, landowners may also wish to consult with an accountant or tax planner. Finally, landowners will need to seek the advice of a qualified real estate appraiser if they intend to take a tax deduction.

The Minnesota Land Trust is a private, non-profit land conservation organization permanently protecting land and waters that define our communities and enrich our quality of life. In partnership with hundreds of landowners throughout the State, the Minnesota Land Trust protects more than 30,000 acres of natural and scenic land and more than one-half million feet of fragile shoreline.



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# Minnesota Land Trust

## Completed Land Protection Projects

as of June 30, 2008

