

CONSERVATION EASEMENTS: SECURING THE FUTURE OF YOUR LAND

Do you own land that touches your heart? Perhaps it's a farm or ranch you nurtured into production. Perhaps it's a forest whose trees awe you, or acreage teeming with wildlife. Maybe you've grown up on this land. Maybe you purchased it because you value its intrinsic beauty and utility as open space. Deep down, you simply love the land.

Love for the land is what motivates many to grant conservation easements. They simply want their land to remain intact long after they are gone.

There are other reasons why property owners may grant a conservation easement. Privately conserved open space can create a valuable inherited family legacy and, at the same time, an enduring community benefit. Farms and ranches provide food and jobs. Working forests protect watersheds, moderate temperature, capture carbon, and sustain local mills that supply lumber. Open space provides wildlife habitat in the critical low- to mid-elevations.



If you own larger acreage property in Kootenai County, you have choices about its fate. You can keep it largely undeveloped. There are financial incentives to “grow houses,” so you might subdivide it into smaller parcels or sell it for development. If you value keeping your land intact as a family legacy or to benefit future generations in Kootenai County, you may instead want to consider a conservation easement.

Granting a conservation easement to a qualified nonprofit organization has substantial tax benefits and guarantees your land's continued existence as open space.

Read below to learn more about conservation easements, their benefits and how they work.

What is a conservation easement?

A conservation easement is a voluntary, legally binding agreement between a landowner and a qualified conservation organization. The landowner donates one or more specific rights from his or her bundle of property rights to a conservation organization in perpetuity. As a result, future development is restricted to protect resources and traditional uses, such as farming and forestry. The most commonly transferred rights are the ability to subdivide and develop the land.

What are the benefits of a conservation easement?

- ▶ Conservation easements protect farm and forest land, allowing farming, logging and other forest and farming activities and services to continue.
- ▶ Conservation easements make it easier to transfer land to the next generation.
- ▶ Conservation easements enable future generations to retain land.
- ▶ Conservation easements help stabilize, diversify, and maintain the local economy.
- ▶ Conservation easements help preserve rural communities and local heritage.
- ▶ Conservation easements can offer landowners financial and tax benefits through income tax deductions.

Who owns the land protected by a conservation easement?

Title to the property protected by a conservation easement remains with the private landowner, as do the responsibilities to pay county taxes and other pertinent assessments. By law, the conservation organization holds the donated rights in trust and enforces compliance with the easement provisions. Since the conservation organization does not own the land, it cannot sell it.

If the private landowner sells or bequeaths the property, the conservation easement, like any other existing easement or right-of-way, runs with the land and remains applicable to the **property** regardless of who owns it. The landowner retains the right to sell, lease, or otherwise convey the property. The landowner has the right to control public access. He or she has the right to continue existing agricultural and customarily rural enterprises, such as farming, ranching, grazing, hunting, fishing, and providing wildlife habitat.

Are all conservation easements identical?

The provisions of each conservation easement are individually negotiated between the landowner and the conservation organization. Most conservation easements prohibit large-scale subdivision, development, and commercial and industrial uses that would harm a property's traditional uses or conservation values. However, conservation easements can be flexible enough to include limited residential development or outbuildings consistent with the character of the land and the conservation values the easement is designed to protect. Each conservation easement must have a Statement of Conservation Purpose defining the donor's intent for the use of the property, for example, a working forest or farm.

What are the responsibilities of the landowner and the conservation organization in implementing the conservation easement?

The responsibility of the landowner is to manage the property according to the intent and agreed upon provisions of the conservation easement. The conservation organization is legally required to monitor the conservation easement at least annually to ensure the landowner is complying with the conservation easement terms and to restore compliance if needed.

What are the costs of obtaining a conservation easement?

To obtain a conservation easement, the donor must pay for a Baseline Inventory Report, a two-part Property Appraisal (a pre-easement valuation and a post-easement valuation), and the cost of a title insurance policy. In the case of timberland, a timber volume estimate and appraisal are required. All appraisals must be conducted by qualified appraisers. The costs for these services vary by community. In addition, since the conservation organization is responsible for monitoring compliance with the easement *in perpetuity* and, if necessary, legally defending its purpose and conditions, the organization usually requires a one-time "stewardship donation fee" from the landowner.

What are the tax benefits of obtaining a conservation easement?

If a conservation easement is voluntarily donated to a qualified conservation organization, and if it benefits the public by permanently protecting important conservation resources, the easement's fair market value can qualify as a charitable tax deduction on the donor's federal income tax return. Currently, the donor may take a deduction of up to 50 percent of his or her annual income in the year the donation is made and may carry forward the balance of the deduction for up to 15 additional years. Qualified farmers and ranchers, as defined in IRC 2032A(e)(5) may deduct up to 100 percent of their annual income for those same 16 years. Easements vary greatly in value, with the highest easement values generally found on parcels of land under intense development pressure. IRS definitions and deductions are very specific and must be followed. People thinking about a conservation easement should consult a qualified tax advisor for the most up-to-date information.

Particular to Idaho State Statute, there is no county property tax devaluation allowed from the placement of a conservation easement. The currently assessed value of property for property taxation remains the same regardless of the placement of a conservation easement. In Idaho, landowners, with or without a conservation easement, may lower their property tax rates **if** they qualify for an appropriate Current Use Tax Category such as Agriculture or Timber.

Do conservation easements constitute "ruling from the grave"?

A conservation easement is a transaction between a willing property owner (donor) and a willing conservation organization (donee). It is the ultimate expression of a private property owner's right to keep or to transfer, by donation or sale, his or her land or any of the individual property rights that come with that ownership. Just as the decision to subdivide and develop a tract of land is permanent, the decision to obtain a conservation easement is permanent and binding on all future owners.

Where can I find more information on conservation easements?

Inland Northwest Land Conservancy: 35 W. Main Ave., Ste. 210, Spokane, WA 99201, (509) 328-2939, info@inlandnwland.org

Land Trust Alliance: 1250 H Street NW, Suite 600, Washington, DC 20005, (202) 638-4725, info@lta.org