

Conservation Easements



Practice Description

Conservation easements are voluntary agreements that allow individuals or groups to limit the type or amount of development on their property. A conservation easement can cover all or just a portion of a property and it can be either permanent or temporary. Easements typically describe the resource they are designed to protect (e.g., agricultural, forest, historic, or open space easements), and they explain and mandate the restrictions on the uses of the particular property. Easements can relieve property owners of the burden of managing these areas. They do so by shifting responsibility to a private organization, such as a land trust or government agency, that is better equipped to handle maintenance and monitoring issues. In some cases, tax benefits might be realized by property owners who place conservation easements on some or all of their property.

Conservation easements may indirectly contribute to water quality protection. Land set aside in a permanent conservation easement has a prescribed set of uses or activities that generally restrict future development. The location of the land held in a conservation easement should be evaluated to determine its ability to provide water quality benefits. Property along stream corridors and shorelines can act as a vegetated buffer that filters out pollutants from stormwater runoff. The ability of a conservation easement to function as a stream buffer depends on the width of the easement and in what vegetated state the easement is maintained. Easements may also be used to provide tax benefits for other desirable practices, like tree and natural areas conservation (Center for Watershed Protection (CWP), 1998).

Planning Considerations

Conservation easements are designed to ensure that the land is preserved in its current state long after the original owners no longer control the property. By agreeing to give up or restrict development rights for a parcel of land, landowners can guarantee their property will remain in a prescribed state for perpetuity while receiving tax benefits.

Conservation easements have been used in all parts of the country, and many private groups (on both the national and local levels) exist to preserve natural lands and to manage the conservation easements. States also use conservation easements and land purchase programs to protect significant environmental features and tracts of open space.



Regardless of whether a conservation easement is held by a government agency or a private land trust, certain management responsibilities must be addressed by the easement holder. The following is a list of some of these management duties:

- Ensure that the easement's language is clear and enforceable.
- Develop maps, descriptions and baseline documentation of the property's characteristics.
- Monitor the use of the land on a regular basis.
- Provide information about the easement to new or prospective property owners.
- Establish review and approval processes for land activities stipulated in the easement.
- Enforce the easement's restrictions through the legal system, if necessary.
- Maintain property/easement-related records.

Design Criteria

Often, state agencies and private land trusts have specific qualifications for a property before they will enter into an easement agreement with landowners. Table 1 contains examples of criteria used by private land trusts to determine if a property is worth managing in a conservation easement.

Table 1 Typical criteria that land trusts use to determine feasibility of entering into conservation easement agreement

Criteria	Details
Natural resource value	Does the property provide a critical habitat or important environmental aspects worth preserving?
Uniqueness of the property	Does the property have unique traits worth preserving?
Size of land	Is the land large enough to have a natural resource or conservation value?
Financial considerations	Are funds available to meet all financial obligations?
Perpetuity	Is the conservation agreement a perpetual one?
Land trust's mission	Does the property align with the land trust's mission and the organization's specific criteria?

Maryland has been nationally recognized for its programs that provide funding for state and local parks and conservation areas. The state is one of the first to use real estate transfer taxes to pay for land conservation programs. Several programs are funded through this transfer tax of one-half of one percent (\$5 per thousand) of the purchase price of a home or land, or other state funding programs. Conservation programs include these:

Program Open Space. This program is responsible for acquiring 150,000 acres of open space for state parks and natural resource areas, and more than 25,000 acres of local park land. Every county must create a Land Preservation and Recreation Plan that outlines acquisition and development goals in order to receive a portion of the 50 percent that is granted to local governments (USEPA, 2006b).

Maryland Environmental Trust. This trust is a state-funded agency that helps citizen groups form and operate local land trusts. It offers the land trusts technical assistance, training, grants for land protection projects and administrative expenses, and participation in the Maryland Land Trust Alliance (MNDR, 2001a).



Rural Legacy Program. This is a Smart Growth Initiative that redirects existing state funds into a focused and dedicated land preservation program specifically designed to limit the adverse effects of sprawl on agricultural lands and natural resources. The program purchases conservation easements for large contiguous tracts of agricultural, forest, and natural areas subject to development pressure, and purchases fee interests in open space where public access and use are needed (MNDR, 2001b).

Maintenance

A conservation area's pollutant removal efficiency depends on how much land is conserved, the techniques used to conserve it, and the specific nature of the easement. Conservation easements are assumed to contribute water quality benefits, but no national studies proving this have been released.

Table 2 Annual maintenance costs of different types of green space uses (CWP, 1998)

Land Use	Approximate Annual Maintenance Costs
Natural open space Only minimum maintenance, trash/debris cleanup	\$75/acre/year
Lawns Regular mowing	\$270 to \$240/acre/year
Passive recreation	\$200/acre/year