CONSERVATION
Easements

HOW A CONSERVATION EASEMENT PROTECTS
THE RESOURCES ON YOUR PROPERTY
Overview

A conservation easement is a legally binding agreement that forever limits certain types of uses or prevents development from taking place on the land while the land remains in private hands. Most conservation easements protect land for future generations, while allowing its owners to retain many private property rights, to live on and use it. Granting a conservation easement may result in an income or real estate tax benefit to the easement donor.

By signing and delivering to a qualified private organization or a public entity, a landowner agrees to transfer, by contribution or sale, some ownership rights associated with his or her property – often, the right to subdivide or develop – and the recipient undertakes to maintain and enforce the restrictions created in the easement document.

An easement selectively targets only those rights necessary to protect specific conservation values for each individual property and is individually tailored to meet a landowner’s needs. Examples of specific conservation values may be the protection of water quality or the preservation of old oak savannas.

Sometimes, conservation easements will enable the landowner to qualify for tax benefits in compliance with the rules of any local municipality, the State of Wisconsin, and the Internal Revenue Service. The Geneva Lake Conservancy cannot provide any legal or valuation advice to a landowner that may be thought to be an opinion on a legal or a valuation matter, and it urges any interested landowner to consult his or her own professional advisors.

Rights

Land ownership carries with it a bundle of rights – the right to occupy, lease, sell, develop, construct buildings, farm, among others. A landowner can give up one or more of those rights for a purpose such as conservation while retaining ownership of the remainder of the rights. In giving up a right, the landowner “eases” it to another entity, such as a land trust. For example, a landowner may give up the right to build additional structures while retaining the right to grow crops.
Private Land

Private property subject to a conservation easement remains in private ownership. Many types of private land use, such as farming and timber harvesting continue under the terms of a conservation easement, and owners can continue to live on the property. The agreement may require the landowner to protect land and water resources, such as harvesting trees in a certain way or fencing a stream to keep livestock out; or to refrain from certain actions, such as developing or subdividing the land. Conservation easements do not mean properties are automatically opened up to public access unless so specified in an easement.

Flexibility

There is no one-size-fits-all conservation easement. Each one is individually tailored to meet conservation objectives and the needs of the landowner. A conservation easement can be designed to accomplish specific objectives, such as to protect water quality; or it can be designed more broadly to protect open space, views or land that buffers more sensitive core conservation areas. Easements are also tailored to meet a landowner’s needs, such as potential future needs for additional structures.

In Perpetuity

Conservation easements "run with the land", remaining with the property even if it is sold or passed on to heirs, thus binding in perpetuity the original owner and all subsequent owners to the easement’s restrictions. The entity that holds the conservation easement is responsible for making sure the easement’s terms are followed into the future. They are responsible for monitoring and defending the easement legally in the event it is ever violated. Often landowners have no intention of subdividing their properties for development. However a conservation easement is attractive to them because it reaches beyond their lifetime to ensure the conservation purposes are met forever. An easement binds heirs and other future landowners to comply with the easement’s terms, such as prohibiting the building of roads or multiple housing units. Current landowners can receive peace-of-mind if worried about the future of a beloved property.
Easement Terms

The terms of a conservation easement are set jointly by the landowner and the entity that will hold the easement. The terms are designed to meet the needs of both parties by targeting only those rights necessary to accomplish specific conservation objectives.

Before setting the terms of an easement, the holding entity conducts an assessment of the land and its natural resources to determine the conservation objectives for the land and prepares a baseline documenting the condition of the land. Easement terms also should include a plan for monitoring the property to ensure that the conservation goals will be met in the future and the easement terms will be enforced.

Monitoring and Enforcing Easements

Accepting a conservation easement encumbers the easement holder with a large responsibility. The easement holder must commit staff and resources to monitor the land and ensure easement terms are followed now and into the future. They also must be prepared to legally defend an easement in the event it is ever violated.

To facilitate the easement holder’s responsibility, from both a stewardship and a legal defense perspective, it is anticipated that landowners will share in this responsibility by providing appropriate funding at the time of the transfer of the easement.

On rare occasions, a landowner may seek to amend the terms of a conservation easement. In the vast majority of cases, amendments requested to easements are either to strengthen existing conservation values or to add additional acreage to the easement. Any change to an easement should result in a conservation gain and should result in no private financial benefit to the landowner.

Public Benefits of Conservation Easements

Even though easements are placed on private land, significant public benefits can accrue. Conservation easements can contribute to improved water quality and are often designed to protect aquifers and watersheds. They can protect scenic beauty, vistas and open space. They can help keep land in traditional uses, such as farming. They can buffer public lands and give wildlife habitat an “overflow” onto private land.
The Growth of Easements

More than 1,700 land trusts around the country rely on conservation easements as an effective efficient way to protect open space, farmland and natural areas. The National Land Trust Census in 2010 found that local and regional land trusts have protected more than 47 million acres of open space, an area over twice the size of all the national parks in the United States. (National Land Trust Census, Land Trust Alliance, November 16, 2011.)

As of January 1, 2015, the Geneva Lake Conservancy held conservation easements on 28 properties, totaling 1,956 acres – an increase of 496% (almost five-fold) from the 13 properties, totaling 328 acres held in 2000.

Geneva Lake Conservancy and Easements

The Geneva Lake Conservancy takes its stewardship responsibilities seriously and, as such, has established criteria for evaluating conservation easements for possible acceptance by the Conservancy. In order that an easement will qualify for acceptance, the Conservancy must find that the potential easement meets all of the following four requirements:

- Protects land or water that has significant conservation values that are consistent with the then mission statement of the Conservancy.
- Protects land or water located within the Conservancy’s service area.
- Protects land or water, for which the monitoring, management and enforcement can be met by the Conservancy, both in terms of staffing and financial commitment.
- Protects only land or water that is of sufficient magnitude or other significance, that its conservation value is likely to remain intact, even if adjacent land is developed, or sufficient neighboring land or water is either protected or likely to be protected, so as to have the same result.

A Few Final Thoughts

Conservation easements are a powerful and effective tool for the permanent protection of the environment. They also offer a means to ensure the permanent protection of the lands we love, and they protect conservation values. When land is protected, we leave a legacy for coming generations!

For additional information visit:

www.GenevaLakeConservancy.org/land-protection/

You will find information on easements held by GLC and our Policy for Acceptance of Conservation Easements.
The Geneva Lake Conservancy is a tax-exempt, not-for-profit 501(c)(3) with the passionate mission of protecting the environmental character of the Walworth County area.

The Conservancy is focused on preserving the quality of lake water, wetlands, farmland, open spaces and woodlands, and protecting against excess development, lake crowding and shoreline alteration. The Geneva Lake Conservancy has 28 properties under permanent conservation easements, covering 1,956 acres of land.

The Conservancy works for all of you by protecting land for permanent conservation, advocating through attendance at local municipal meetings, and providing education and information via its Little Free Library, ground water model presentations, print material (including its Shoreline Buffer piece) and the use of social media. Additionally, we partner with like-minded organizations to protect and preserve the environment.