



The Land Trust for Tennessee

MISSION: To preserve the unique character of Tennessee's natural and historic landscapes and sites for future generations.

INTRODUCTION

Thank you for contacting The Land Trust for Tennessee. *Our mission is "to preserve the unique character of Tennessee's natural and historic landscapes and sites for future generations."* This brochure of basic information for landowners describes how we can help you meet your land preservation goals.

Chartered as a non-profit, non-government organization, we have an experienced professional staff and a host of highly-trained volunteers prepared to assist you. The Land Trust for Tennessee ("LTTN") uses conservation easements as the primary tool to protect land. A conservation easement, explained in detail below, is a legal agreement by which landowners voluntarily place restrictions on the future use or development of their property. LTTN is responsible for insuring that your wishes and the land's conservation values are protected forever. Land protected by a conservation easement remains in private ownership, and may be sold or left to heirs. Depending on your situation, you may also receive significant income tax deductions, a reduction in estate taxes, or an adjustment of property taxes by participating in this conservation effort.

You know your land best. As you think about the future, some of the questions you may be asking include: What will happen to my land in the years ahead? Can my family and children afford to keep it? Will the next owners care for it the same way that my family has? Are there ways to protect the special attributes of the land, yet still meet our financial and personal goals? What will happen to our land because of development pressures or inheritance taxes and what are my options?

We are prepared to help. Contact us after you have read through this information so that LTTN may work with you, as well as your financial and legal advisors, to determine if a conservation easement is the best way for you to leave a legacy of natural beauty and historic value for future generations.

CONSERVATION EASEMENTS

The Land Trust for Tennessee uses the conservation easement as its primary tool to protect land. Conservation easements are legal agreements by which landowners voluntarily place restrictions on the future development of their property in order to protect specific conservation values such as agricultural land, forests, wetlands, wildlife habitat, scenic landscapes, and the land around certified historic sites or structures.

Below are the answers to some of the most commonly-asked questions regarding conservation easements:

How does a conservation easement affect my property rights?

Land ownership can be viewed as owning a bundle of rights. These rights may include the right to build on the land, the right to farm or to plant and cut timber, the right to exclude the public, and others. A landowner who conveys a conservation easement retains all rights to use the land in ways that do not interfere with the conservation goal stated by terms of the easement.

The landowner usually retains the following rights:

1. The right to sell the property. The new owner(s) must conform to all terms of the conservation easement permanently.
2. The right to farm or manage timber.
3. The right to hunt or to restrict hunting.
4. The right to transfer the land to heirs.
5. The right to restrict public access. Physical access is not required for "scenic enjoyment." Visual access is enough.

The landowner typically restricts the right to subdivide and develop the property because his or her goal is to preserve the land's special natural or historic character. It is possible, however, to stipulate in the easement that a limited number of structures may be built in the future. The important point is that each easement is tailor-made to meet individual protection interests.

How does my land qualify for protection through a conservation easement?

As the property owner, you see important natural or historic features of your land that should be protected, and you are willing to give up development rights in order to achieve their protection. In order to donate your development rights to The Land Trust for Tennessee and be eligible for tax benefits, the IRS requires that one of these "qualified conservation purposes" are met:

1. Preservation of open space, including farm and forest, for scenic enjoyment.
2. The protection of natural habitats of fish, wildlife or plants.
3. The protection of historically important land, buildings or other structures.
4. Preservation of land areas for outdoor recreation by, or the education of, the general public.

We also have specific criteria, such as the property's location and conservation values, that determine whether LTTN is the appropriate organization to protect this property. LTTN staff and volunteers will assist you in determining the specifics of how your land may qualify. Of course, you will need to have your own legal and financial advisors help you determine if this is the best solution for your conservation interest.

What rights does The Land Trust for Tennessee have on my land?

If LTTN holds a permanent conservation easement for your property, we are obligated to oversee the easement's terms and conditions permanently. In order to do that, we inspect the property approximately once a year to ensure that the agreement is being upheld. These visits are customarily scheduled with the landowner. Such inspections become especially important when the property's ownership changes hands, for it is our promise to you that your preservation goals be met forever.

Are there tax benefits to protecting my land with a conservation easement?

Beyond the great satisfaction of knowing that you are preserving your special land, you may also be eligible for certain tax benefits. A conservation easement may reduce:

1. Federal income and capital gains taxes.
2. Local property taxes.
3. Estate taxes.

How are tax benefits determined?

The rights a property owner relinquishes, and those that are retained, are set forth in the conservation easement. This easement is transferred permanently to a qualified conservation organization such as The Land Trust for Tennessee. When the document is signed and recorded at the courthouse, the property's current and future owners can no longer exercise the rights that have been given up. Those rights have a financial value. To determine that value, an appraisal is conducted. This appraisal must be performed in accordance with guidelines stipulated by the Internal Revenue Service.

Here is an example. Let us say that the appraised, fair market value of your 100 acre tract of land is \$5,000 per acre, or \$500,000. You wish to limit its future use solely to farming by placing a conservation easement on the land. The appraisal shows that the land's value without being able to develop it is reduced to \$3,000 per acre, or \$300,000. The difference of \$200,000 can be claimed as a \$200,000 charitable contribution by you to the organization designated to hold the conservation easement.

Your tax attorney and accountant will tell you all of your specific tax benefits, but generally, you may expect the following:

Federal Income and Capital Gains Tax Benefits

Under the IRS code, the value of the donation of a qualified conservation easement can be deducted at an amount up to 30 percent of the donor's adjusted gross income in the year of the gift. If the easement's value exceeds 30 percent of the donor's income, the excess can be carried forward and deducted over all or part of the next 5 years.

Property Tax Benefits

A conservation easement may reduce or stabilize property taxes, depending on current zoning and land use and current assessed value.

Estate Tax Benefits

The donation of a conservation easement, whether during the landowner's life or by bequest, can reduce the value of the land upon which estate taxes are calculated. This benefit can often mean the difference between heirs having to sell or develop the property to pay estate taxes, or being able to keep the property in the family. A conservation easement may be an effective way to pass land on to the next generation in its natural state.

STEPS TO SETTING UP A CONSERVATION EASEMENT

Step 1. You and an LTTN representative take a tour of your property.

On this introductory visit, you and the staff member or trained volunteer from LTTN will have the opportunity to see the property, to discuss your conservation goals, and to address conservation options. You will already have received and completed the "Landowner's Questionnaire" prior to that visit, so the information about your land and conservation goals will be available to LTTN representative.

Step 2. LTTN reviews your property and conservation goals with the Projects Committee.

The Projects Committee of the Board of Directors reviews all potential land protection projects with the staff to determine if it is appropriate for LTTN to pursue the easement at this time.

Step 3. You consult your legal and tax advisors.

It is your responsibility to review the legal and financial implications and benefits of donating a conservation easement. LTTN can provide you with a list of local advisors familiar with this process, but you are urged to work with those advisors with whom you are comfortable and who will give you the best advice for your personal situation. You will want advice on income and estate tax issues, and the way in which to take maximum advantage of the benefits possible through a conservation easement. You may also want to have an informal consultation with a qualified appraiser. Doing this early in the process will help you to gain a general understanding of the value of the restrictions under discussion.

Step 4. LTTN compiles a baseline documentation report of the property.

Basic documentation needs to be completed for every conservation easement we accept, since it is the "present condition of the land" that gives us background for continued monitoring. Many of the easements that we accept are set up to qualify as tax-deductible charitable gifts to The Land Trust for Tennessee as a qualified, non-profit, § 501(c)(3) organization. The value of the development rights relinquished through the easement is considered the value of the charitable gift. To comply with IRS regulations, a record of the condition of the property at the time of the donation is required. We call this the "baseline documentation report." It will include photographs, surveys and other important information to represent fully the property and its special features. LTTN representatives complete this record of the property during site visits with you and those you designate.

Step 5. You provide legal information to LTTN.

LTTN will need title information to identify the owner(s) of the property and the legal description of the land to be included in the conservation easement. You will also provide information on any liens or mortgages that may exist on the property.

Step 6. You obtain a mortgage subordination for the property.

If your property is subject to a pre-existing mortgage, you are responsible for obtaining a subordination from the lender in order for LTTN to be able to accept the easement. We will assist you in explaining to the lender the benefit of the easement to the community-at-large and the charitable purpose of the donation.

Step 7. Together we negotiate the restrictions and draft the easement.

Throughout the steps listed above, you and LTTN will have developed a good idea of what type of activities will be restricted by this easement as well as what continued uses of the land you desire. At this time, the draft conservation easement will be prepared by LTTN. Your legal advisors and LTTN will review the document to be sure that both our interests are served. As this is a legal document, and one that will be attached to the property forever, careful discussion and scrutiny is vital to ensure our mutual satisfaction with the long-term implications of the easement.

Step 8. You obtain a qualified appraisal.

An accurate appraisal is key to understanding what the conservation easement is worth as a charitable donation to LTTN, and thus what the tax benefits may be to you and your family. As the property owner, it is your responsibility to obtain this appraisal. After this has been done, no more than 60 days may elapse before the conservation easement document is signed. The final appraisal, then, will be based on the restrictions placed on the property in the conservation easement document.

Step 9. The Land Trust for Tennessee Board of Directors is asked for formal acceptance of the conservation easement.

Both the Board of the Directors of LTTN and a subsidiary committee are authorized to approve acceptance of the conservation easement donation. Meetings are held regularly to review activities of LTTN and to approve receipt of conservation easements.

Step 10. We both sign and record the easement.

When both parties have agreed to all the terms and the wording of the easement, it is time for both to sign the document. You, as the owner, will sign it, as will the authorized representative for The Land Trust for Tennessee. The conservation easement is recorded by the attorney at the county courthouse, becoming part of the recorded title to the land. This conservation easement is in perpetuity. It will be part of every sale or transfer of this property from this day forward and should be included in the addendum of any appraisal performed after the easement is in place.

Step 11. The Land Trust for Tennessee provides stewardship of the conservation easement.

From this point on, LTTN is responsible for monitoring the specifics of the conservation easement to protect your land. This usually means an annual visit and review, although a complex conservation easement may require more frequent monitoring. Also, at each transfer of the property's ownership, a representative of The Land Trust for Tennessee will contact the new property owner to review the stewardship responsibilities as they are set out in the easement.

COSTS OF PROTECTING LAND THROUGH A CONSERVATION EASEMENT

The Land Trust for Tennessee is frequently asked, "Is there a fee for your services?" The short answer is no. LTTN does not charge a fee for assisting landowners in preserving their properties through the use of conservation easements. The longer answer is that we do ask our landowners to consider the costs that our non-profit organization incurs during the process of establishing each individualized conservation easement, and even more importantly, those entailed in protecting each easement in perpetuity.

Each project requires staff and volunteer time, telephone calls, travel costs, materials and office systems, and so forth. There are also the costs involved in annually monitoring properties, and in being prepared to defend an easement against any legal challenges that may arise. To assure that LTTN is always able to meet the short and long-term expenses of keeping our promise to you to protect your land forever, we ask you to consider contributing to our Stewardship Fund at the time you establish your easement. LTTN is also supported by an Annual Campaign that may fit in with your charitable interests as well. All contributions to The Land Trust for Tennessee are eligible to be tax deductible.

Because we advise you to consult with a number of professional advisors prior to signing a conservation easement, you should expect to incur costs associated with those professionals' fees. They typically include:

1. Appraiser to determine the value of the conservation easement.
2. Attorney to review LTTN draft conservation easement, consult with you, provide the legal description, and verify a clear title to the land.
3. Accountant or attorney to review the income tax implications of the donation and the estate planning implications and benefits of the easement donation.
4. Surveyor to survey the land.

TO LEARN MORE, CONTACT THE LAND TRUST FOR TENNESSEE

If, after reviewing this "Basic Information for Landowners" you have questions or are ready to begin the process of protecting your land for future generations, please contact us. We are here to assist you.

THE LAND TRUST FOR TENNESSEE

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