



NORTH CENTRAL CONSERVANCY TRUST

What is North Central Conservancy Trust?

North Central Conservancy Trust, Inc. (NCCT) is a 501(c)(3) non-profit organization created to hold conservation easements on privately owned property, with a mission to conserve the natural heritage of central Wisconsin through the protection of land. NCCT started in Wausau in 1994 to assist local landowners who wished to protect green space and natural areas from destruction or development. NCCT now serves eight counties in central Wisconsin, with close to sixty conservation easements that permanently protect approximately 5,000 acres, as well as holding title to three properties in Waushara, Marathon, and Portage Counties.



NCCT serves the community and the environment by holding conservation easements for local landowners seeking to preserve the conservation value of their land in perpetuity.

In 2019, NCCT also became the owner of the former DNR ranger station in the Village of Whiting in Portage County. This one-acre property in Upper Whiting Park is now NCCT's permanent office home and headquarters. The counties served by NCCT are Portage, Marathon, Lincoln, Taylor, Clark, Wood, Adams, and Waushara.

NCCT works with landowners to assist with the development of conservation easements. Once an easement is completed to everyone's satisfaction and filed with the Register of Deeds, NCCT is legally responsible for ensuring that the conditions of the easement are permanently honored. NCCT has legal authority to enforce the conditions of an easement, even with litigation if necessary, and manages an endowment to cover enforcement costs. Conservation easements are especially important for protecting the agricultural, scenic, and environmental qualities of our landscape. The mission of NCCT includes educating both the public and elected

officials about the value of conservation and the role of conservation easements. NCCT works closely with town and county officials, and is affiliated with Gathering Waters, a state-wide land trust organization that helps to coordinate land-protection activities among the more than 50 land trusts in Wisconsin. NCCT is also a member of the national Land Trust Alliance, which supports land protection across the country.



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Why Protect Your Land?

We are fortunate to live in an area of Wisconsin where development is relatively slow compared to the Fox Valley or Dane County. Central Wisconsin enjoys the aesthetic mix of open farmland, forests, wetlands, and lakes, with smaller towns and villages that nearly everyone finds appealing. This mix of habitat supports a wide variety of plant and animal life, and opportunities for outdoor recreation. Moreover, having wetlands, protected stream corridors, and forests reduces water pollution, flooding, erosion, and other environmental problems, and provides a rural aspect to the landscape. Loss of open land to development, however, is a growing concern even here.

Across Wisconsin, 22,500 acres of farmland were converted to urban development annually from 1992 to 2010. Nearly as much non-farmland was developed for highways, rural housing, and industrial purposes. In the eight-country area served by NCCT, over 2,100 acres of farmland, and nearly 5,000 acres of open land in total, are developed each year. In addition to loss of natural habitat, there is a corresponding increase in runoff and erosion.



Land is a non-renewable resource. Once developed, open land rarely, if ever, is converted back to natural habitat. Thus, the loss of open land represents a steady erosion of the rural landscape that heretofore has characterized central Wisconsin.

Of course, some development is inevitable in a growing economy. Careful planning is required to protect the most important habitat and associated resources, to maintain an overall environment that can be sustained and which provides the quality of life that people want. Because development increases the tax base, short-term planning generally favors it. Study after study, however, shows that the increased cost of infrastructure and loss of environmental quality, over the long run, favors long-term planning and carefully regulated development. Nature can be preserved over the long run only if people plan for it, and insist that natural areas, farmland, and streams be protected.



Here in central Wisconsin, we are still well ahead of the problems that now dominate land use in the Fox Valley and much of Dane County. We should, however, keep as much of the high-quality land undeveloped as possible, recognizing that once developed, we cannot recover it. Land conservation must be an active process to offset the development pressure that otherwise will inevitably lead to an urbanized

environment complete with air and water pollution and loss of outdoor recreation. We have a choice about what landscape we will leave our children and grandchildren. Development is the inevitable consequence of failing to make a choice and protect the land.

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What are Your Land Conservation Options?

Those wishing to protect their land from undesirable development or use after they no longer can oversee it have a variety of options that are reviewed here. It probably is not necessary to remind landowners that zoning, or even the needs or whims of close relatives, are subject to change. It is a sad commentary on society's values that most people view land as a commodity, to be bought and sold for profit. Land, however, is a component of Earth's ecosystem which must function to maintain a healthy environment. Like our bodies, parts can be abused, even lost, and the body continues to function, but each degradation leads to greater dysfunction. To the extent that we each ensure that our piece of Earth's ecosystem remains intact, all of society profits and is sustained.

Conservation Easement

A conservation easement is a voluntary land protection agreement between a landowner and a non-profit entity, called a land trust, willing to hold and enforce the easement in perpetuity. The conservation easement is a legal document that becomes a part of the deed, restricting certain activities, uses, or subdivision. What is restricted is up to the landowner and the landowner's family, although the land trust



will have an interest in both what is restricted and how it is stated in the document. The land trust will want to be certain that the easement protects the most important habitats and resources that contribute to environmental quality and aesthetics. This is nearly always the aim of the landowner as well. The land trust will also want to avoid restrictions that it cannot easily monitor or enforce, such as hunting rights or trespass. These restrictions are better left to the landowner. Finally, it is important that the document be unambiguous, clearly define the area being protected, and fulfill all legal requirements. To this end, the land trust will ask its attorney, familiar with conservation easements and the legal requirements, to review the final draft and offer any suggestions for improvement. Likewise, the landowner will have every opportunity to contribute to the development of the easement and have it reviewed by an attorney, if desired.



Conservation easements are especially attractive because you retain ownership and use of the property with only restrictions that you have agreed to place on the land. If you choose, you can continue to farm, practice forestry, hunt, lease, or otherwise enjoy your property as always. You can also bequeath, sell, or give the property to whomever you choose.

The property will always be restricted by the easement regardless, and the land trust will monitor and enforce the easement.

Because donated conservation easements are viewed as charitable gifts to the public by the IRS, they can provide significant tax advantages if they meet federal tax code requirements. Easements may be donated through your will or trust, or by an executor of an estate, although most

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landowners who want their land protected do so while they are able to oversee the development of the easement. Property restricted by a conservation easement may also be assessed at a lower value. Check with your local assessor. Also, you may obtain property tax relief through participation in government programs such as Managed Forest Law. Most such programs are compatible with conservation easements.



Land Donation

You may choose to donate your land to North Central Conservancy Trust. This may be the best strategy for landowners who do not wish to pass the land to heirs and have no further use for the property that often is greatly appreciated and may represent a tax burden on the owner or the estate. By gifting it to NCCT, a tax credit for the

full value is realized. NCCT, at no cost to you, may choose to place a conservation easement on the property that reflects your wishes, and sell the property to a buyer who understands and accepts the restrictions of the easement. You receive the full tax advantage plus the satisfaction of knowing the land could be forever protected, and the proceeds from the sale would be used to support the NCCT mission.

If you wish, you may retain full use of donated land in several ways. Land can be donated as a Reserved Life Estate, allowing you to continue use through your lifetime. Alternatively, land can be donated by Bequest, or “donation by devise,” which transfers ownership of the property to the land trust through your will.

Purchase of Land or Easement

If you are not in a position to donate an easement or your land, but the land has exceptional conservation values which you and NCCT have agreed should be protected, the land or easement might be sold to the land trust. NCCT has very limited resources to purchase easements or land, but in rare cases might be able to organize a fundraising program to acquire the money. Sometimes, in these rare instances, the landowner is willing to offer the easement or the land at below market price, and thereby contribute to the sale. The amount below fair market value, based on current appraisal, is a potential tax benefit.



Trade Land

Not all real estate will qualify for a conservation easement, but many of the tax benefits discussed above can still be realized by donation of real estate to NCCT. NCCT can choose to sell these donations and use the money to protect conservation lands. Thus, you have potential tax benefits and the satisfaction of knowing you have contributed to land conservation, even though your real estate may not have qualifying conservation values.

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Tax Benefits

Donations of Real Estate and Other Assets

Gifts of land or other assets to NCCT typically qualify for charitable tax deductions. Land or securities donations may also have important capital gains benefits. An independent appraisal by a qualified appraiser may be required for tax benefits from larger donations.

Donations of Conservation Easements

Donation of a conservation easement can result in significant income and estate tax benefits and may have important implications for property tax relief. As long as the donation meets federal and state tax code requirements, the donation will be treated as a charitable deduction for tax purposes. Check with your local tax assessor about potential reassessment of property restricted by a conservation easement.



How is the Value of a Conservation Easement Determined?

When a conservation easement limits or restricts uses, especially the right to subdivide or develop, the value of the land is affected. That value is determined by a qualified independent appraiser. The appraisal must be completed no earlier than 60 days prior to the contribution and no later than the donor's deadline for filing their federal tax return.

The appraisal works as follows:

1. The land is appraised at the full market value.
2. The land is appraised again, taking into account the restrictions in the easement that limit some or all of the property's use or development rights.
3. The difference between these two figures is the value of the conservation easement.

Example of Conservation Easement Value

Appraised full, fair-market value of property before the easement: \$200,000.

Appraised full, fair-market value of property with easement in place: \$150,000.

Value of the conservation easement as a charitable contribution: $\$200,000 - \$150,000 = \$50,000$.

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Answers to Common Questions About Easements

What is a Conservation Easement?

A conservation easement is a legal agreement that restricts the type and amount of development, or certain management practices that may take place on a property. Each easement's restrictions are tailored to the particular property and to the interests of the individual owner.

To understand the easement concept, think of owning land as holding a bundle of rights.



A landowner may sell or give away the whole bundle, or just one or two of those rights. These may include, for example, the right to construct buildings, to subdivide the land, to restrict access, or to harvest timber. To give away certain rights while retaining others, a property owner grants an easement to an appropriate third party.

The specific rights a property owner forgoes when granting a conservation easement are spelled out in the easement document. The owner and the prospective easement holder, called a land trust, identify the rights and restrictions on use that are necessary to protect the property. What can and cannot be done to the property is defined. The owner then conveys the right to enforce those restrictions to an easement holder, such as a public agency or a land trust.

What Kinds of Easements are There?

Easements often are called by different names, according to what they protect. Most people are familiar with easements that protect rights-of-way or access to property across neighboring land. Easements used to preserve the façade and surroundings of historic structures or historic land are called "historic preservation easements." Conservation easements protect habitat, surface or ground water, aesthetics, rare species, or combinations of these.

Why Grant a Conservation Easement?

People grant conservation easements to protect their land from development or certain types of use while retaining ownership. By granting an easement in perpetuity, the owner can be assured that resource values will be protected forever, no matter who assumes ownership of the property. Because easements restrict management or development options, they usually reduce the market value of property. This loss of value, at least with conservation easements, may be claimed as a tax benefit because it is the public that gains from the protection of conservation, scenic or historic values.



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What Kind of Property Can be Protected by an Easement?

Any property with significant conservation values can be protected by a conservation easement. This includes forests, wetlands, scenic areas, historic areas, and mixed-use land that includes agriculture and combinations of other habitat. Land conservationists will evaluate the distinctive features of your property. You and the land trust will then determine which resource values merit protection through restrictions identified in the easement. Any property with significant conservation or open-space value may be the subject of an easement.

Who Can Grant an Easement? To Whom May the Property Owner Grant an Easement?

If the property belongs to more than one person, all owners must consent to granting an easement. If the property is mortgaged, the owner must obtain an agreement from the lender to subordinate its interest to those of the easement holder, so that the easement cannot be extinguished in the event of foreclosure.

If an easement donor wishes to claim tax benefits for the gift, he or she must donate it or sell it for less than fair market value to a public agency or to a conservation organization that qualifies as a public charity under Internal Revenue Code Section 501(c)(3). Most land trusts and government agencies meet this criterion. An organization that accepts the donation of an easement will typically ask the owner to make a contribution toward the cost of monitoring and protecting the easement, or will establish a stewardship fund from other sources.



How Restrictive is an Easement?

An easement restricts development or use to the degree that the owner and land trust deems appropriate to protect the significant values of that particular property. Sometimes, this totally prohibits development. Sometimes it only limits it.

If the goal is to preserve a pristine natural area, for example, an easement may prohibit subdivision and all construction, as well as activities that would alter the land's present natural condition. If the goal is to protect agricultural land, an easement may only restrict subdivision and development while allowing for structures and activities necessary for and compatible with the agricultural operation. Even the most restrictive easements usually permit landowners to continue all ownership privileges consistent with restrictions.



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What are the Grantee's Responsibilities?

The grantee organization, or land trust, is responsible for enforcing the restrictions that the easement document spells out. To do this, the grantee monitors the property on a regular basis, typically once a year. Grantee representatives visit the restricted property, usually accompanied by the owner. They determine whether the property remains in the condition prescribed by the easement and as was documented at the time of the grant. The grantee maintains written records of the monitoring visits. The visits also serve to keep the grantee and the property owner in touch.



If a monitoring visit reveals that the easement has been violated, the grantee has the legal right to require the owner to correct the violation and restore the property to its condition prior to the violation.

Must an Easement allow Public Access?

Landowners who grant conservation easements make their own choice about whether to open their property to the public. Some landowners convey certain public-access rights, such as allowing fishing or hiking in specified locations, or permitting guided tours. Others may elect to keep their property closed. Some types of easements require access. For example, if the easement is given for recreation or educational purposes, public access is required. For scenic easements, at least some of the property must be visible to the public, but physical access is not necessary. Access generally is not required for easements that protect wildlife or plant habitats, or agricultural lands.

How Long Does an Easement Last?

An easement usually is written so that it lasts forever. This is known as a perpetual easement. Where state law allows, an easement may be written for a specified period of years; this is known as a term easement. Only gifts of perpetual easement, however, can qualify a donor for income- and estate-tax benefits. Most land trusts accept only perpetual easements.

An easement runs with the land—that is, the original owner and all subsequent owners are bound by the restrictions of the easement. The easement is recorded at the county or town records office, so that all future owners and lenders will learn about the restrictions when they obtain title reports.

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Answers to Common Questions About Easements

How Can Donating an Easement Reduce a Property Owner's Income Taxes?

The donation of a conservation easement usually is a tax-deductible charitable gift, provided that the easement is perpetual, and is donated “exclusively for conservation purposes” to a qualified conservation organization or public agency. Internal Revenue Code Section 170(h) generally defines “conservation purposes” to include the following: *the preservation of land areas for outdoor recreation by, or the education of, the general public, and the protection of relatively natural habitats of fish, wildlife, or plants, or similar ecosystems, the preservation of open space—including farmland and forest land—for scenic enjoyment and pursuant to an adopted governmental conservation policy.*

To determine the value of the easement donation, the property is appraised both at its fair market value without the easement restrictions, and at its fair market value with easement restrictions. The appraisal must be done by a certified appraiser who meets IRS requirements. The difference between the two appraised values is the easement value. Detailed federal regulations govern these appraisals.



As an example: A property has an appraised fair market value of \$100,000. Mrs. Price, the landowner, donates a conservation easement to a local land trust. The easement restrictions reduce the property's appraised market value to \$64,000. Thus, the value of her gift of the easement is \$36,000. Assuming the easement meets the conservation purposes test, Mrs. Price—like any donor of property—is eligible to deduct an amount equal to 30 percent of her adjusted gross income each year for a number of years [check tax code as the specifics are subject to change], or until the value of the gift has been used up. If Mrs. Price has an annual adjusted gross income of \$60,000, she can deduct \$18,000 a year ($30\% \times \$60,000$) until she has used up the \$36,000 value. In this case, she will use up the gift in two years ($2 \times \$18,000 = \$36,000$), if her income does not change. Easement donors may qualify for greater savings, especially when state income-tax deductions are applicable. Potential donors should seek legal and tax counsel.

How Can Granting an Easement Reduce a Property Owner's Estate Tax?

Many heirs to large tracts of open space—agricultural land in particular—face monumental estate taxes, or capital gains taxes. Even if the heirs wish to keep their property in the existing condition, the federal estate tax is levied not on the value of the property for its existing use, but on its fair market value, usually the amount a developer or speculator would pay. The resulting estate tax can be so high that the heirs must sell the property to pay the taxes.

A conservation easement, however, nearly always reduces property value. If the property owner has restricted the property by a perpetual conservation easement before his or her death, the property must be valued in the estate at its restricted value. To the extent that the restricted value is lower, the value of the estate will be less, and the estate will thus be subject to a lower estate tax. (Note that if the property owner donates the easement during his or her lifetime, he or she may also realize income-tax savings.)

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Even if a property owner does not want to restrict the property during his or her lifetime, the owner can still specify in his/her will that a charitable gift of a conservation easement be made to a qualifying organization upon the owner's death. Assuming that the easement is properly structured, the value of the easement gift will be deducted from the estate, reducing the value on which estate taxes are levied. Again, a lower tax results.

Can Granting an Easement Reduce an Owner's Property Tax?

Property tax assessment usually is based on the property's market value, which reflects the property's development potential. If a conservation easement reduces the development potential of the property, it may reduce the level of assessment, and the amount of the owner's property taxes. The actual amount of reduction, if any, depends on many factors. State law, local officials, and assessors influence or determine the decision regarding property tax relief to easement grantors.

How Much Will an Easement Cost?

The short answer is, "probably nothing." The reason is that if you have a qualified conservation easement that NCCT will accept, then you may be able to claim all expenses and contributions relating to the easement against your gross income used to determine federal and state taxes. Secondly, in the previous three segments, we describe potential tax savings resulting from reduced property value. It is not unusual for property in central Wisconsin to be revalued at \$30,000-40,000 less as a result of an easement, depending on the location and size of the property. (See "Tax Benefits" in the Land Conservation Options.) You will want to check with your attorney or tax advisor, but in many cases, a property owner may end up saving money with an easement. That said, there are up-front costs, in addition to the \$500 commitment you would give to NCCT to initiate work on your easement. At closing, you will be asked to pay all attorney, filing and other costs incurred by NCCT, which can average approximately \$2,000. You will also be asked to make a donation to NCCT to help fund easement protection and stewardship efforts. The NCCT Board manages funds for protection and stewardship to help ensure that NCCT is able to cover the perpetual costs of easement and land stewardship. NCCT manages stewardship costs as part of a comprehensive program in part by combining donations from many donors to help protect NCCT lands and easements. The recommended donation amount varies from property to property ranging, on average, from \$5,000 to \$11,000 to help cover the anticipated costs.



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Landowner Costs for a Conservation Easement

A. Easement Preparation Costs

Following is a list of items that are required during preparation of an easement. North Central Conservancy Trust (NCCT) will provide or assist with these, but the cost generally is covered by the landowner. Note, however, that most, if not all costs and donations associated with an easement can usually be declared as tax benefits..

- Negotiation on what restrictions are to be included in the easement
- Travel expenses to meet with landowner and become acquainted with the property
- Legal expenses for NCCT's attorney to design and review the easement
- Legal expenses for landowner to have separate legal review of the easement, if desired
- Title search and recording fee
- Baseline documentation
- Appraisal and land survey



The landowner must arrange for any legal work separate from NCCT's review of the easement, if desired, and for an appraisal and survey, if required. NCCT can provide names of qualified appraisers and surveyors if requested. Surveys may or may not be required, but appraisals are necessary if the landowner wishes to take an IRS benefit for the easement.

B. Contribution to the Easement Stewardship Fund (ESF)

Purpose

Land trusts are required by the IRS to monitor easements to ensure that the terms are being maintained. This involves at least annual visits to the property. Land trusts also have a legal responsibility to enforce the terms of the easement if at some future time a violation is discovered. This might only involve calling the problem to the attention of the landowner, or agreeing on an acceptable change in some practice, but a worst case could involve litigation. In fulfilling this obligation, NCCT will incur annual expenses related to monitoring and maintaining contact with the owner. Enforcement and legal expenses, should they be necessary, could be considerable. The purpose of the easement stewardship fund is to provide a perpetual investment to cover actual and potential costs in the future.

To provide the funds, NCCT requests landowners make a tax- deductible donation at the time the easement is signed. All contributions are pooled and diversely invested for use in stewardship of easements we hold. These funds are not used for the operation of NCCT, but only to cover direct expenses associated with easement protection.

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Landowner Costs for a Conservation Easement

Stewardship Costs

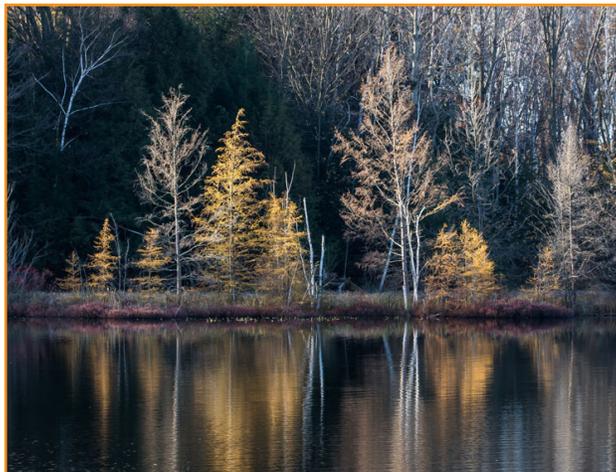
Easements vary widely in terms of complexity and difficulty to monitor, and risks that might lead to future legal expenses. Because NCCT cannot predict when or if there will be a need to defend an easement, we can provide only general guidelines for the donation to the Easement Stewardship Fund (ESF). In some instances, NCCT will apply for grants, or seek supplemental funding to augment a landowner's donation. The following factors are considered in estimating stewardship funding for an easement:

1. Location and physical characteristics of the property (size, topography, regularity of boundary, etc.)
2. Complexity of the easement (reserved building or division rights, specialized management practices for agriculture or forestry, multiple ownership of the property, neighboring risks associated with activities on adjacent properties, etc.)
3. Availability of other funds to help with funding the ESF for the easement.
4. Other factors that contribute to the risk of a future violation (value and type of natural resources on the land, market trends associated with those resources, nature and types of management activities on the land, owner residence on the land, etc.)

Summary

The following costs and donations should be considered when planning a conservation easement:

- A \$500 non-refundable donation is requested to initiate our work on an easement. We think of this as "earnest money." It provides an indication of serious intent justifying investment of time and energy by our limited volunteer personnel. It also covers travel and incidental costs we may incur in collecting needed background information for the easement.
- All fees and expenses for preparation of an easement must be paid by the donor of the easement at the time of signing. This includes the legal fees for the NCCT attorney to prepare and review the easement, title insurance, filing fee, and other costs NCCT may have incurred. Ordinarily these fees and costs add up to about \$2,500. This does not include any fees a landowner pays to his or her own attorney to have the easement reviewed, if desired.
- An additional donation to NCCT to help fund easement protection and stewardship. The NCCT Board manages funds for protection and stewardship to help ensure that NCCT is able to cover the perpetual costs of easement and land stewardship. Such costs may include monitoring and defense of the easement. Donation amounts vary based on easement characteristics but typically range from \$5,000 to \$11,000 depending on the variables described above.



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