

## Frequently Asked Questions: How can I Protect My Property?

*Owners can protect their property through various conservation options.*



Thank you for talking with Glacial Lakes Conservancy to learn more about the options for conserving private lands with your local land trust! You have probably heard about the growing success that small, regional, and international land trusts are having in permanently protecting some of Wisconsin's most treasured places, prime working lands, and natural resources.

Here is a sample of potential options for landowners.

**Conservation Easement** A conservation easement is a legal, voluntary agreement between a landowner and the Glacial Lakes Conservancy (GLC.) It permanently restricts the type and amount of development and activities in order to protect a property's conservation values.

### Advantages:

- **Retain Ownership** - Landowners retain ownership/title to the land and may continue to live on it, sell it or pass it on to the heirs, knowing that it will always be protected.
- **Flexible** - Conservation easements are flexible and written to meet the particular needs of the landowner and the land.
- **Permanent** - They are permanent and stay with the land as ownership changes.
- **Professional** - They are written by GLC's attorney.
- **Protect a Variety of Land** - They are used to protect varied land attributes including farms, grassland, forests, wetlands, lakeshore and scenic and open space.
- **Beneficial to the Public** - They protect private lands that can improve water quality, provide wildlife habitat and protect economic sustainability of rural communities.
- **Tax Benefits** - An easement donation that meets federal tax code requirements may qualify as a tax-deductible charitable donation.
- **Affordable Way to Pass on Land** - An easement that restricts development potentially lowers the land's market value, which in turn lowers estate taxes and makes a critical difference in the *heirs' ability to keep the land intact*.

### Conservation Easements do not

- Require public access on protected private lands.
- Transfer ownership or management responsibilities to GLC.
- Facilitate government ownership of land.
- Remove property from the tax roll.
- Restrict landowner's ability to sell property.

**Limited Development** A limited development strategy is used when conservation of an entire property is not feasible. It allows for developing a portion of the property to finance preservation of the remainder. A site inventory and a concept plan are necessary elements of this strategy to ensure that development is consistent with, and complimentary to, the land's natural and scenic features. When used with a conservation easement, this technique can effectively protect natural resources.

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**Fair Market Sale** Land Trusts or government agencies are sometimes willing, though often not able, to buy conservation land or easements. This type of protection is also not as advantageous for the landowner as it might seem. Capital gains taxes on the property's appreciated value, along with selling costs such as the realtor's commission, can substantially reduce the profits.

**Bargain Sale** A bargain sale is a transaction that is part sale and part gift. It involves a sale of an interest in property for less than the fair market value of the property. For example, say Mr. and Mrs. Jones own 40 acres of woodlands adjacent to their farm and bordering on a wetland that Glacial Lakes is working to preserve. Let's say further that the property is "worth" \$4,000 an acre on the open market. Mr. and Mrs. Jones like the idea of preserving the woods, but need to receive some funds from the property for their retirement. On the other hand, it would be difficult for Glacial Lakes to raise the \$4,000 per acre value of the property through private fundraising. The solution might be a bargain sale of the property, with the Conservancy buying the property for \$2,000 per acre. This results in cash to Mr. and Mrs. Jones of \$2,000 per acre, and also an income tax deduction equal to \$2,000 per acre, reducing the capital gains tax on the sales proceeds or offsetting other income that the couple has.

For tax purposes a bargain sale is treated as two separate transactions – the sale and the contribution. The "bottom line" is that this is one of the ways Glacial Lakes and interested landowners can achieve their goals concerning the preservation of the land.

**Conservation Registry Program** GLC offers Land Registry/Voluntary Protection agreements as a unique, flexible option in the conservation of private lands. A conservation registry program is a handshake agreement between GLC and a landowner. The voluntary cooperation of a landowner to protect the natural elements, features and characteristics of his or her property is the basis of the program. The owner makes a commitment to preserve and protect the area to the best of their abilities, notifying Glacial Lakes of any threat to the area, and of any intent to sell or transfer the property, before it is placed on the market.

**Conservation Buyer Program** This program provides a unique opportunity for a private buyer to acquire and retain ownership of land while working in partnership with Glacial Lakes Conservancy to preserve the land in perpetuity.

Conservation Buyers agree to protect the land in one of two ways: 1) they can acquire the land and agree to enter into a voluntary, permanent agreement — a Conservation Easement — to limit development and use the property in ways that are compatible with mutually agreed upon conservation objective or 2) they can acquire the land and gift it to Glacial Lakes Conservancy to receive significant tax deductions.

Buyers who choose to donate a conservation easement may receive significant tax benefits. The amount of the tax benefit will depend on a variety of factors. Potential buyers should consult their tax and legal advisors to determine the tax advantages of any transaction involving conservation easements.

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Conservation buyers may also have the opportunity to purchase property, which is already subject to a conservation easement, thereby significantly reducing the purchase price. Contact GLC if you are an interested conservation buyer or you know of land that is in need of a conservation buyer.

**Remainder Interest/Reserved Life Estate** A remainder interest is a donation of land to a Land Trust, while allowing the landowner or any other named person to continue to live on the property during their lifetimes (called a "reserved life estate"). When the landowner or those specified die or release their life interests, the Land Trust will have full title and control over the property. This approach can allow you to continue to enjoy the land, but because the deed is transferred during your lifetime, you gain assurance that the Land Trust has accepted your land for protection. A gift of a remainder interest may entitle the landowner to an income tax deduction when the gift is made. A potential disadvantage of this option is that there could be estate tax liability if the life tenant is someone other than the donor. Also, if the tenant is young the tax deductions may be quite small.

**Charitable Remainder Trust** A charitable remainder trust is not in itself a land conservation technique, but it can be combined with a conservation easement and limited development strategy to protect land and aid financial planning. A charitable remainder trust involves the donation of property by a landowner to a trust created by the landowner. The trust sells some of the land for development and donates a portion to be protected. The sales proceeds are invested to generate income. A specified beneficiary receives an annual payment, typically between 5-10% based on the value of the property. Upon the passing of the beneficiary or expiration of the trust terms, the remaining funds in the trust are turned over to a charitable organization to be named by the landowner.

**Native Landscaping** A landowner's decision to preserve land incorporates many factors and often formal protection is not a viable option. In light of this, GLC encourages landowners to incorporate conservation protection through the implementation and stewardship of native landscapes. Increasing and incorporating native habitats into one's yard can benefit local wildlife and expand existing habitat corridors. Yard maintenance can have many drawbacks including: significant time and fuel use; use or overuse of fertilizers and pesticides that can negatively affect adjacent natural areas and water resources; and destruction of existing native landscapes for wildlife purposes. Becoming familiar with your local natural resources can benefit and even enhance your own back yard!

Note: The above is provided as options and is not meant to provide tax or legal advice.