

# Landowner Conservation Options

A Guide to Conserving your Land for Future Generations



NORTHEAST WISCONSIN  
**LAND TRUST**  
*Preserving Our Natural Heritage*



# Landowner Conservation Options

## A Guide to Conserving your Land for Future Generations

This information was adapted with permission from:

Conserving Your Land. How you can help preserve healthy communities, clean air and water, natural areas, and local food resources.

Conservation Options. A Landowner's Guide  
Land Trust Alliance



*Across Northeast Wisconsin, people are involved in conserving the places they value that make Wisconsin special. Landowners have a deep connection to their land and are taking a stand to safeguard the places they love—for their families and future generations.*

For more information about conserving your land please contact:

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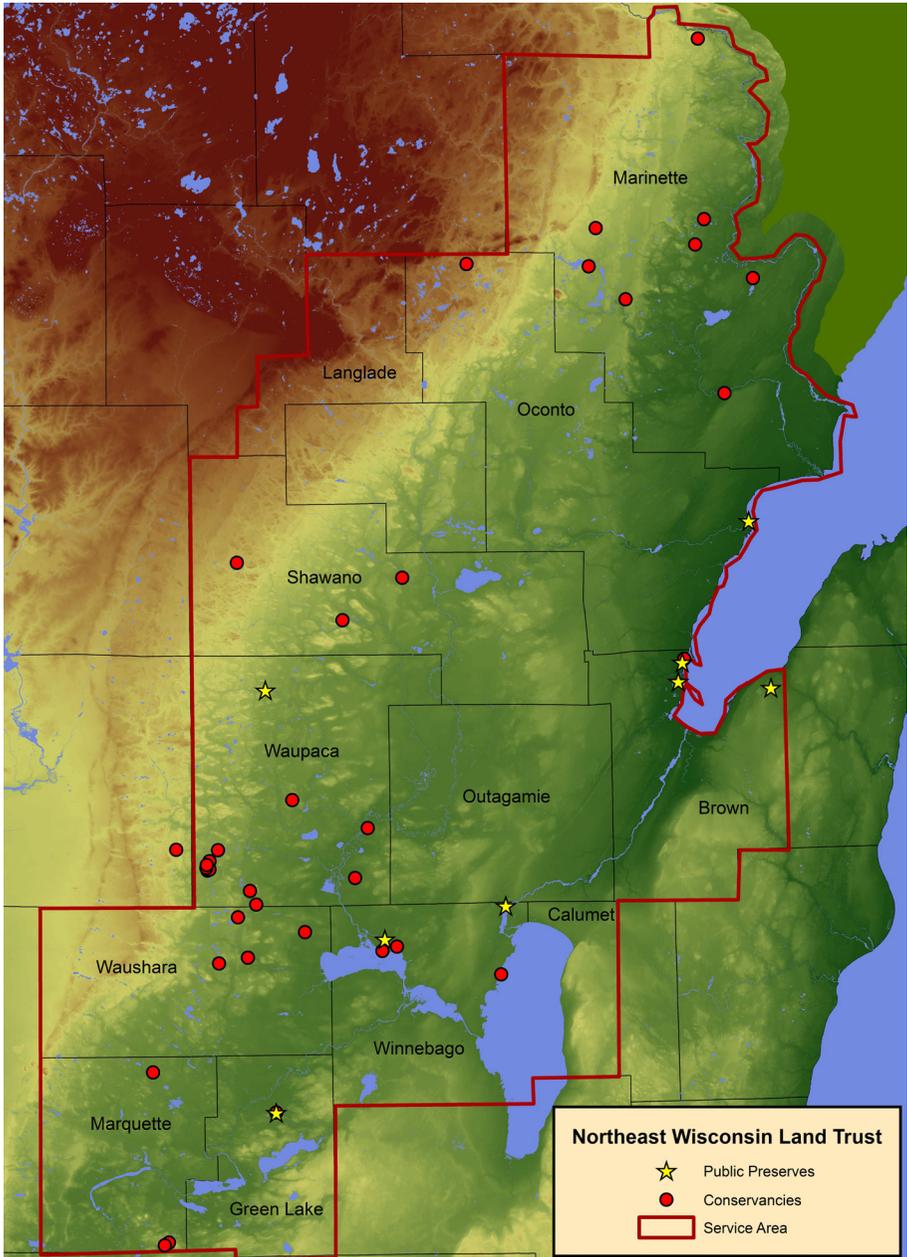
Visit our website: [www.newlt.org](http://www.newlt.org)



The mission of the Northeast Wisconsin Land Trust is to preserve lands that protect our waters, landscapes, and natural habitats for this and future generations.

*“There are not many ways a person can have an impact that lasts beyond their lifetime. Protecting special places has an enduring and permanent impact.”*

# Northeast Wisconsin Land Trust Service Area



Northeast Wisconsin Land Trust serves in 12 counties: Brown, Calumet, Green Lake, Langlade, Marinette, Marquette, Oconto, Outagamie, Shawano, Waupaca, Waushara, Winnebago

For information on land trusts serving other parts of the State please contact:

Gathering Waters – Wisconsin’s Alliance for Land Trusts  
[www.gatheringwaters.org](http://www.gatheringwaters.org)

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# Your Land, Your Legacy, Your Choice...You Can Decide the Future

As a property owner, you know that your land is special. Like many landowners, you are probably concerned about your land's future. With increasing development pressure on natural land in Wisconsin, many property owners are asking themselves:

*“What will happen to my land in the future? Will future owners care about the property the way I do? Can my children and grandchildren afford to keep the property?”*

There is good news, you have it within your power to permanently keep your land the way it is. What Wisconsin will look like a generation from now is being decided day-by-day, parcel-by-parcel, by landowners like you. This booklet explains how you can preserve your land in a way that makes financial sense for you and your family. The land conservation methods described have been used by thousands of landowners to conserve more than 50 million acres of land across the nation—an area greater in size than the state of Missouri.

## Why Choose Conservation?

Landowners choose to protect their land for a variety of reasons. Often, the primary motivation is a desire to conserve the special qualities of their land — for example, its scenic beauty or valuable wildlife habitat. Tax incentives and any other funding available for conservation often factor into a family's financial planning. In addition, the process of considering conservation options can aid in estate planning. For some families, the estate tax advantages of conservation allows them pass on their land to the next generation.



*Spikehorn Creek - 181 Acres - Marinette County*

Northeast Wisconsin Land Trust is dedicated to assisting property owners in protecting the scenic, rural, and ecological integrity of their land.

- We listen to landowner’s goals and vision for their land and help match these with the most appropriate land protection strategy.
- We write conservation easement agreements or facilitate land donations that protect the property’s conservation and scenic values while accommodating the needs of the landowner.
- We help landowners to set easement terms that accommodate their future plans (for example, an additional building site), as long as the easement protects important resources on the land.
- We are stewards of the conservation easement agreements and lands we accept and have the perpetual responsibility of protecting the scenic, rural, and ecological values of these properties.

Land trusts are conservation organizations that can help find the right solution, one that fits the needs of your family and your financial situation, while conserving your land in the most appropriate way. There are over 1,500 land trusts in America today!

Since 1996, the Northeast Wisconsin Land Trust has helped over 50 landowners preserve their properties for future generations. We would be honored to assist you and your family in planning for your land’s future.

Land conservation is truly an area where individuals can make a difference — in fact, where individuals are critical. What Wisconsin will look like a hundred years from now is being decided day-by-day, parcel-by-parcel, by landowners, like you.

Take the time to consider the ideas in this booklet and put them to work for your land, your family, and your community.



In recognition of its collaborative approach, prudent financial management and professionalism NEWLT was named 2016 Land Trust of the Year, by Wisconsin’s land trust umbrella organization, Gathering Waters.

## Northeast Wisconsin Land Trust

Northeast Wisconsin Land Trust is a non-profit organization as determined by the Internal Revenue Service under section 501(c)(3) and it is licensed by the State of Wisconsin as a charitable organization.

Northeast Wisconsin Land Trust envisions a future landscape that maintains a balance between natural and developed areas where important natural functions and features are preserved for all time. Our waters, fields, farms and forests are essential for the well-being of our people and the health of our environment. This is why the land trust works to preserve land that protects the integrity of the landscape we rely on. We protect wildlife habitat, rare, threatened or endangered species, shorelines, environmental corridors, forests, wetlands and the beautiful vistas that we are privileged to have here in northeast Wisconsin.

Since our founding in 1996, Northeast Wisconsin Land Trust has partnered with property owners to preserve over 5,000 acres of land and 50 properties that protect our water, support rich plant and animal life and represent some of Wisconsin's finest natural habitats. We know these places are cherished now and will be treasured long into the future by subsequent generations of people who live, work and play in northeast Wisconsin.

In general, Northeast Wisconsin Land Trust land protection projects must have conservation value and serve the public interest by preserving one or more of the following:

- natural habitat
- shorelines and wetlands
- water quality
- unique scenic landscapes
- wildlife corridors or connections to other protected lands
- outdoor recreation or education areas

Decisions to protect land require consideration of your land conservation goals, your financial situation, your family's future needs and wishes and the special features of your property. After reading through this guide, you may have more questions than answers. Do not be deterred, you have begun a very important process, and help is available.

Property owners are very fortunate to have a local organization like Northeast Wisconsin Land Trust that is dedicated to helping landowners plan for the future protection of their property. Northeast Wisconsin Land Trust would be honored to talk with you about the vision you have for your property and discuss in more detail the land protection strategies outlined in this guide and how these strategies may be applied to your particular situation.

## Assessing Your Situation

In examining the alternatives, it can be helpful to consider these questions:

### **The land's ownership:**

Do you want to continue owning the land and pass it on to someone in your family? Conservation easements allow you to place permanent restrictions on the land while keeping the land in private ownership.

Do you want to continue living on the land? Donations of conservation easements and some land donations allow you to continue living on the land while conserving it permanently.

Are you interested in donating your land to a charitable organization? Donations of land can be structured in a variety of ways, each having different tax consequences.

### **The land's qualities:**

What is it about the land that is important to you? What are its special natural or historic features? The appropriate conservation tool depends in part on the nature of the land. A very restrictive technique might be appropriate for a delicate and rare animal habitat, but restrictions that allow traditional uses to continue might be appropriate for a farm or forest.

Does the entire parcel need to be conserved to maintain the property's natural or scenic values? The conservation techniques described in this booklet can often be applied to just a portion of the property or combined in a variety of ways. Also, conservation easements can allow some development, while still conserving the conservation values of the property.

### **Your personal and financial situation:**

Might you need to solve future estate tax problems or present income tax or property tax concerns?



*Embarass River II - 64  
Acres - Shamano County*

Conservation easements allow the landowner to retain title to the land while still reducing future estate taxes on it (often significantly). Donating or selling the land removes its value from the overall estate and thus also reduces estate taxes. All the techniques that involve donation of land or an easement during the donor's lifetime can also provide income tax and, in some locations, property tax relief to varying degrees.

Do you need to receive some cash for the land? Bargain sales (see chapter 6) provide cash. You can also place a conservation easement on the land and sell the land subject to the easement. In some cases, portions of a property with little conservation value can be sold for appropriate development while still achieving the over-all conservation goals. And some kinds of donations provide a life income.

Do you need to have the future option to build additional houses on the property or to sell building lots? If building sites can be located, so that they do not damage the property's conservation values, you may be able to achieve your conservation goals while reserving future lots, in case your children would like to live on the land or you find you need to sell a building lot for income. Conservation easements can often be structured to allow some development.

How much of the value of your land is due to appreciation during your ownership (and to what degree are you interested in reducing capital gains liabilities)? If the land you own has appreciated a great deal and you are contemplating selling it at fair market value, capital gains tax can reduce your profits considerably. Donating the land or selling the land in a bargain sale may be an attractive alternative.

Which strategy is best for protecting your land becomes clearer after considering the following questions:

- What is it about your land that makes it special to you?
- Do you want to continue to own the land and pass it on to someone in your family?
- Do you want to continue living on the land or plan on living there in the future?
- Do you need the option to build additional residences or structures on the property; or to sell portions of the land?
- Are you interested in the benefits derived by donating all or portions of the land?
- Could you take advantage of a significant income tax deduction?
- Is property tax relief a major consideration?
- Has your land appreciated in value significantly since you have owned it?
- Do you need to receive some cash for your property in the near future?

Arriving at the land protection strategy that is right for your particular situation takes thought and deliberation. Northeast Wisconsin Land Trust has the experience, expertise, and commitment to provide landowners with sound information and assurance of long-term protection for their property. The board members and staff of the Northeast Wisconsin Land Trust share your concern for land and for the future of Northeast Wisconsin. We are here, ready to help.

# Northeast Wisconsin Land Trust Land Protection Strategies

Land conservation option	Qualifications	Description	Results	Potential Tax Benefits
Conservation Easement	Land must have conservation value	legal agreement between a landowner and land trust permanently limiting a property's use.	Land conservation values conserved by land trust. property owner continues to own, use and live on land. Land is not open to the public	Income tax deduction* and estate tax reduction*
Outright Land Donation - Conservation Land	Land must have conservation value. Donation must be approved by land trust.	Land is donated to the land trust	Land trust owns and conserves land. Land will be open to the public for recreation and educational use.	Income tax deduction* and estate tax reduction*
Land Donation, Non-Conservation Land	Land does not need conservation value. Any property may be donated.	Land is donated to Land Trust then resold on open market	Funds generated from the purchase are used to support conservation programs	Income tax deduction*
Donation of Land by Will	Donation of conservation land must be approved by land trust	Land is donated to land trust at death	Conservation lands will be preserved, non-conservation land will be sold and funds used to support conservation programs	Income tax deduction* and estate tax reduction*
Bargain Sale of Land	land must have conservation value	land is sold for a price below fair market value		Income tax deduction* and estate tax reduction*
Land Purchase (rare)	Land must have exceptional conservation value	Land trust purchases land at fair market value from willing sellers.	Land trust owns and conserves land. Land will be open to the public for recreational and educational use.	n.a.

\*in most cases. The amounts of income tax and estate tax reduction depend on a number of factor.

## Professionals

The techniques described here are sometimes complex, and all have long range implications. You should make decisions affecting the ownership and use of your property only after consulting your own legal and financial advisors.

## CONSERVATION EASEMENTS

A conservation easement can make a critical difference in a family's ability to pass land from one generation to the next. This flexible tool conserves land while leaving it in private ownership. By granting an easement in perpetuity, the owner is assured that the resource values of his or her property will be protected indefinitely, no matter who the future owners are. The owners still have the right to enjoy and use the property in ways not restricted by the easement.

A conservation easement is a voluntary legal agreement between a property owner and Northeast Wisconsin Land Trust that permanently restricts the type and amount of development and uses that may take place on the property in order to protect the land's scenic and conservation values.

*Conservation easements offer many advantages:*

-Continued ownership of the property.

Landowners continue to own their property and may continue to live on it, sell it, or pass it on to heirs. The conservation easement simply limits the activities or land uses that you and future landowners may undertake so that the conservation values of the property will be protected.

-Tax benefits

Conservation easements can result in significant income and estate tax benefits for the landowner. It can substantially lower estate taxes—sometimes making the difference between heirs being able to keep the land in the family or needing to sell. In addition, a conservation easement can provide the landowner with income tax benefits.

-Flexibility

Conservation easements are flexible and are written to meet the particular needs of the landowner while conserving the properties resources. An easement takes into account the special attributes of your land as well as your personal needs and interests and addresses these factors in a manner that you and the Northeast Wisconsin Land Trust agree upon.

-Permanent/Permanency

They are permanent, remaining in force even when the land changes ownership; subsequent owners will be bound by the original conservation agreement. Northeast Wisconsin Land Trust ensures that all future owners honor the terms of the conservation easement.

-Future decision-making

By providing a “framework” for how the land can be used in the future, conservation easements can reduce the potential for disagreement when lands are passed on to heirs.

## How Conservation Easements Work:

When you own land, you also “own” many rights associated with it, such as the right to harvest timber, build structures, grow crops, subdivide the land and so on (subject to local zoning and other restrictions). A property owner that enters into a conservation easement with Northeast Wisconsin Land Trust permanently restricts some of these activities in order to protect the scenic and conservation values of the land.

Conservation easements are detailed legal agreements that outline the rights and restrictions on a landowner’s uses of the property and the responsibilities of the landowner and the land trust that holds the easement.

Each conservation easement is unique. Easement terms are tailored to conserve the land’s conservation values and meet the financial and personal goals of the landowner. The landowner and the land trust decide together and mutually agree upon what’s needed to protect the land’s conservation values, while at the same time meeting the financial and personal needs of the landowner. Most conservation easements apply to the entire property but easements can also be written to apply to only a portion of the property.

Conservation easements are permanent and are recorded at the County Register of Deeds Office so that all future owners and lenders will learn about the restrictions when they obtain title reports.

*Spikehorn Creek - 190 Acres - Marinette County*



The term “easement” often confuses people because of the common use of easements to allow access to or across private property. Public access is not required. 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 do not.

Protecting land through a conservation easement provides a guarantee of accountability. Unlike simply attaching deed restrictions to a property title, donating a conservation easement provides the certainty that a landowner’s desire to preserve the land’s conservation values is honored far into the future by an organization dedicated to the principles of saving precious resources.

## **Working with Landowners to Meet the Easement’s Goals**

Accepting the donation of a conservation easement is a tremendous responsibility for a land trust. It means accepting the permanent responsibility and legal right to ensure the terms of the easement are being met. As such, Northeast Wisconsin Land Trust personnel will visit the property every year to answer questions about the conservation easement, ensure the easement terms are upheld and to talk to the landowner about future plans for the property. If a future landowner or someone else violates the easement, for example by erecting a building the easement does not allow, Northeast Wisconsin Land Trust will take action to see that the violation is corrected, even if that means going to court. Northeast Wisconsin Land Trust carries Conservation Defense Insurance on each of our protected properties to assist in the rare case that legal action is needed.



These permanent responsibilities result in perpetual cost to the land trust, therefore, Northeast Wisconsin Land Trust maintains a fund dedicated to stewarding the lands we protect. Proceeds from the fund are used to cover the expense of annual monitoring, enforcing compliance and legal defense insurance. A donation to this fund is requested from the landowner for each conservation easement granted.

## **Financial Incentives for Donating Conservation Easements**

### **Federal Income Tax Deduction**

The donation of a conservation easement can qualify as a tax-deductible charitable gift, as long as it meets federal tax code requirements. These requirements include provisions that the easement must be perpetual, must be donated to a qualified organization with commitment and resources to enforce the easement and must be donated for conservation purposes, as defined in the tax code as accomplishing at least one of the following:

- Preservation of land areas for outdoor recreation by, or the education of, the general public.
- Protection of a relatively natural habitat of fish, wildlife, or plants, or similar ecosystem.
- Preservation of open space (including farmland and forest land), where such preservation will yield a significant public benefit and is either for the scenic enjoyment of the general public or pursuant to a clearly delineated federal, state or local governmental conservation policy.
- Preservation of a historically important land area or a certified historic structure.

In essence, the income tax deduction is reserved for the preservation of conservation resources that truly provide significant public benefit. However, an easement does not have to cover all of a property, preclude all use or development or allow public access in order to qualify for a charitable deduction.

### **The Size of the Income Tax Deduction**

For income tax purposes, the value of the conservation easement is the difference between the value of the land with the conservation easement and its value without the easement. This is determined by a certified appraiser (see appraisers section). For example, suppose an unrestricted property is worth \$500,000 on the open market to a developer who would subdivide it and build several homes. The landowner donates an easement on the property to Northeast Wisconsin Land Trust. The easement precludes further development. The fair market value of the land with the easement's restrictions in place is \$200,000. The value of the conservation easement is the difference between the before and after values. Therefore the donation is considered to be \$300,000 ( $\$500,000 - \$200,000 = \$300,000$ ). There are limitations on how much a taxpayer can deduct.

Although virtually all conservation easements result in some reduction in value, there is no rule of thumb for determining how much that will be. Easement values have ranged from less than 10% to more than 90% of a property’s fair market value. In general, the highest easement values arise from very restrictive conservation easements on tracts of developable open space in areas where development pressures are intense. An easement on an underdeveloped wetland or one that allows subdivision and development will have lower value.

- The 2015 permanent conservation tax incentive:
- A donor can take a 50 percent deduction of his or her income for donating a conservation in any year;
  - Qualifying farmers and ranchers are allowed to deduct up to 100 percent of their income; and
  - The carry-forward period for a donor to take tax deductions for a voluntary conservation agreement is 15 years.



## Property Taxes

Placing a conservation easement on your property may result in property tax savings. The property tax assessment of a conservation easement-restricted property logically should reflect the land’s lowered value after the placement of development restrictions. However, Wisconsin law states only that local assessors must “consider” the effect a conservation easement has on the property’s value. Since local assessment practices vary, a property tax reduction may or may not result. In northeast Wisconsin, property tax reductions on conservation easement lands are rare.

# Conservation Easements Can Significantly Reduce Estate Tax

Conservation easements can also help families pass lands on to the next generation by reducing estate taxes. Because conservation easements may lower the fair market value of the property, the value of the estate being passed on to heirs may be reduced. Therefore, estate taxes – based on the value of the property – are reduced. This can make a critical difference in the heir's ability to keep the land intact.

It's a fact of modern life that simply passing land on from one generation to the next may prove impossible for some families. A landowner dies, leaving land to her children. The children find that the land has appreciated dramatically since it was purchased. Because of its development potential, the land's fair market value is in the millions of dollars. The federal estate tax—40 percent since 2013—is based on this fair market value at the date of the owner's death, not on the land's original purchase price or on its current use. Selling all or part of the land for development often is the only way to pay the estate tax.

A conservation easement can change this scenario. If the landowner places an easement on the land restricting future development, its fair market value will, in most cases, be reduced. When the landowner dies, estate taxes—based on the value of the land with its development potential restricted—will be reduced. An easement's effect on estate taxes is generally more important to landowners with sizeable estates and substantial real estate holdings than to those with more modest estates. This is because the 2015 estate tax provisions exclude the first \$5,430,000 in value of a decedent's estate. For a married couple, the exclusion amounts to \$10,860,000.

Even though the estate tax exclusion is significant, land with high development value can often exceed it.



*Clarks Bay II - 145 Acres - Winnebago County*

# Summary of Steps for Donating a Conservation Easement

The following steps do not necessarily flow in order. They may occur simultaneously or out of sequence, depending on project needs. Putting in place a sound conservation agreement that meets multiple needs and will stand the test of perpetuity takes deliberation, forethought and diligence. Northeast Wisconsin Land Trust is committed to creating viable lasting agreements. Easement projects can therefore take 18 months or longer from project initiation to closing.

## INITIAL INVESTIGATION:

After a landowner contacts Northeast Wisconsin Land Trust, the land trust will work to understand the donor's wishes and will provide information to help the landowner understand the conservation options available for their land. Simultaneously, the land trust will conduct a preliminary review of the property using publicly available aerial photos and maps to evaluate whether the land will meet conservation criteria/standards.

## PROPERTY INFORMATION: BACKGROUND

Landowner will submit a completed Property Background and Description Questionnaire --- there is a \$500 fee

## SITE VISIT

The land trust will visit the site (when Donor is present) and tour the property to evaluate its ecological, habitat, recreational or scenic value, doing an initial site inventory to help make a determination as to whether it meets Project Selection Criteria.

## CONDUCT TITLE SEARCH AND MORTGAGE CHECK

The Donor will furnish evidence of good title and determine whether there is an existing mortgage or similar lien. If a mortgage or other lien exists, the lender must agree to subordinate its rights to the easement in order for the Donor to receive a full tax deduction and to be assured of the future integrity of the conservation easement.

## INITIAL PROJECT REVIEW

Northeast Wisconsin Land Trust Land Committee and subsequently Board of Directors will review the proposed project and grant Approval to Proceed.

## LETTER OF INTENT

The Donor should seek the assistance of an attorney at this point. The land trust's attorney will provide the Donor, and the Donor will sign, a letter outlining their basic intent and objectives with respect to the land, donations, endowment, time expectations, and other matters as agreed. This is to clarify the Donor's intent and wishes, and, while it is not a binding legal document, it should be discussed and reviewed by the Donor's attorney.

The Trust's land committee will review the property questionnaire/application, site inventory data, and objectives of the Donor as expressed in the Letter of Intent, as well as all available data, and make a recommendation to the Board of Directors. The Board will be asked to review and approve the Letter of Intent.

#### DUE DILIGENCE:

##### DRAFT CE

The Land Trust's attorney will provide the Donor's attorney with a draft of the conservation easement. The easement should be reviewed carefully to determine its consistency with the Donor's objectives.

##### SURVEY

Landowner will have property surveyed and the corners marked, unless a determination is made that the survey is not needed.

##### TITLE INSURANCE

The Land Trust will order title commitment, the landowner pays for it.

##### APPRAISAL

An appraisal, ordered by the Donor, that analyzes the comparison method or market value of the land before and after the easement is necessary if the Donor intends to seek tax benefits from the donation. Add the time frame requirements and reference Appraisals section.

##### ENVIRONMENTAL SITE ASSESSMENT

The land trust will conduct a search of environmental records and will also visit the site to determine if there are environmental issues to be resolved.

##### BASELINE DOCUMENTATION

The baseline documentation is the key report, signed by both the Donor and the land trust, which establishes the condition of the property at the time the easement was created. The Donor is requested to have boundaries clearly marked prior to these visits.

##### PRE-CLOSING

Provide NEWLT with a copy of Appraisal.

##### Review CE

Review Baseline Documentation Report.

Sign, notarize and return to NEWLT.

##### CLOSING

##### SIGN DOCUMENTS, RECORD CONSERVATION EASEMENT, DONATE TO ENDOWMENT FUND

After a final review, the Donor and the land trust will sign the conservation easement and baseline documentation report. The easement and any subordination will then be recorded with the Register of Deeds. The land trust will then make a calendar entry to record a notice of the easement in forty years. The Donor will make any agreed donation to the endowment fund, which provides money to monitor and enforce the easement in accordance with the Donor’s objectives.

**What Expenses can I expect? How much does a Conservation Easement Cost:**

- Your Attorney and financial advisor
- Survey
- Appraisal
- Application/Letter of Intent Fee
- Title Insurance
- Stew Endowment
- Up Front Costs Contribution

### John and Judith Turner Property

This illustration shows how flexible conservation easements can be in accommodating the goals and needs of a landowner. In this example, the property owner had several goals in mind including forestry, agricultural and limited residential uses. All of these are addressed by the conservation easement.

- The Conservation Easement created “Forestry Areas” on the property where forest management activities are encouraged.
- The Conservation Easement created two “Agricultural Zones” where future agricultural activities are permitted.
- Two “Building Zones” were created in order to accommodate a future single-family residence and other associated residential or farm buildings.
- The conservation easement protects the scenic values of this Highway 57 property by keeping all buildings and structures within the Building Zones. Thus, 37 of the 40-acres will remain undeveloped.



# DONATING LAND FOR CONSERVATION

Donating land is truly one of the finest legacies a person can leave to future generations. Donating land may be an especially attractive option for landowners:

Whose land has significant conservation values and who do not have heirs or whose heirs cannot or will not protect it. Who own property (such as a vacation retreat) that they no longer use. Who own highly appreciated property, the sale of which would result in large capital gains taxed. Who have substantial real estate holdings and wish to reduce estate tax burdens. Who would like to be relieved of the responsibility of managing and caring for land that they otherwise treasure.

An outright donation of land is a relatively simple transaction with several benefits. It releases you from the responsibility of managing the land, while providing substantial income tax deductions and estate tax benefits (while avoiding any capital gains taxes that would result from selling the property). Most important, if the land is donated and has conservation value, it will be permanently preserved.

Land that has little conservation value or does not need to be owned by a conservation agency in order to be protected can also be donated to a land trust, with the understanding that it will be sold with development restrictions, if appropriate, to help support the land trust's conservation programs.



*Emmons Creek - 210 Acres -  
Waupaca County*

Northeast Wisconsin Land Trust assists landowners in preparing and recording the necessary title work, arranging for surveying that may be needed, and helping the landowner reach decisions on important issues regarding the property.

Considerations when donating land may include:

- Whether to donate all or just a portion of the property;
- How the Northeast Wisconsin Land Trust intends to use and manage the property in the future.

However, before any steps are taken towards a possible land donation, it is important that landowners first contact the Northeast Wisconsin Land Trust to determine its interest in receiving ownership of the property. Although the Northeast Wisconsin Land Trust will usually welcome a land donation, in some cases the Land Trust may be unable to accept it.

Before land is donated to Northeast Wisconsin Land Trust, it is important for the landowner and Land Trust to have a common understanding of whether the land trust intends to conserve the land by owning and managing it directly, permanently preserving the land with a conservation easement and returning it to private ownership, or re-selling the land with no conservation restrictions and using the proceeds to fund land preservation elsewhere.



## Conservation Lands to be Owned by Northeast Wisconsin Land Trust

Accepting the donation of land to be owned and managed by the land trust in perpetuity is a tremendous responsibility for a land trust. It means accepting the permanent responsibility to care for the land, manage public use, and pay for all future expenses associated with landownership, a perpetual cost to the land trust. Before the land trust can accept a donated property, the land trust must have a plan in place for funding the long range stewardship of the preserve. Northeast Wisconsin Land Trust maintains a fund dedicated to stewarding the lands we protect. A donation to the Stewardship Fund may be requested from the landowner to accompany the donation of land. Proceeds from the fund are used to cover the expenses of annual monitoring, land management, public access, general upkeep and insurance. Although this might seem like an odd request to make of a donor who has already made a generous gift of property, most landowners agree that it demonstrates Northeast Wisconsin Land Trust's commitment to land stewardship seriously.

## Donating Land to Be Resold With a Conservation Easement

In some cases, ownership by the Land Trust may not be the best long term conservation strategy for your property. If private ownership is most appropriate for the property, the land trust may accept the land, place restrictions on it in the form of a conservation easement and resell it. The land is then conserved by the easement, the land trust's management costs are reduced and the land trust can use the proceeds from the sale to fund the stewardship responsibilities of the easement and other conservation work.

## Trade Lands

Trade lands are properties donated to Northeast Wisconsin Land Trust to further our conservation work. These properties may or may not have significant conservation characteristics.

A trade land may not be protected as a nature preserve. NEWLT staff and board of directors evaluate the donated property's natural resources; if they are deemed to be of long-term conservation importance, the property will be protected with a conservation easement prior to selling it to a conservation buyer. Land that has little conservation value can be donated to a land trust with the understanding that it will be sold to provide funds for conservation of ecologically significant land elsewhere. Trade lands can be any kind of real estate. Homes, farms, apartment buildings, vacant land, retail centers and office buildings are all examples of the kind of real estate the land trust can accept.

If you donate such property, you can make a vital contribution to the land trust's land conservation program. All proceeds from the sale are applied to our conservation work throughout our region.

Trade lands can be donated up front to take advantage of income tax benefits or as a bequest in a will. Under this scenario, you can take a charitable deduction for the full fair market value of the gift and avoid capital gains taxes that could have resulted from selling this land yourself. Identical tax treatment is accorded to gifts of trade land and are ecologically important.

For all land donations it is important that the landowners and the land trust agree in writing on the intent of the donation. The Board of Directors must also agree to accept any land donation, so we encourage any prospective donors to contact Northeast Wisconsin Land Trust well in advance.

We also recommend that donors consult with their own financial and legal advisors.

## Income Tax Deduction

If you donate property to the Northeast Wisconsin Land Trust you can claim an income tax deduction equal to the land's current fair market value (within limitations allowed by the tax code).



## Property and Estate Tax Relief

Donating land will also remove its value from your estate, reducing future estate taxes. And, of course, you won't have to pay property taxes on it anymore.

## Donating Land by Will

Some landowners prefer to continue to own and control their land during their lifetime, and instead transfer the land to the land trust by will at the time of their death. This kind of donation is called a donation by will or by devise. Before writing the devise into your will, you should make sure the Northeast Wisconsin Land Trust is willing and able to receive the gift. Because the land trust's priorities and objectives may change over time, it may be a good idea to name an alternate recipient (whose agreement should also be secured) in the event that the land trust is unable to accept the gift after your death.

If you are leaving conservation lands to the land trust in your will, it is important to consider the long term management costs associated with land ownership and to consider providing the land trust with the means to fund the long term land stewardship responsibilities that will accompany the gift.

Placing the donation in your will rather than donating the land during your lifetime means that you receive no income tax benefits from your gift and you will continue to be liable for property taxes. However, removing the value of the property from your estate could significantly reduce estate taxes.

## BUYING AND SELLING LAND WITH CONSERVATION IN MIND

## Fair Market Value Sale to NEWLT

Selling your land at fair market value to a land trust may seem like an obvious way to conserve it. However, as nonprofit organizations, land trusts usually have very limited funds. When Northeast Wisconsin Land Trust does purchase land at all, we reserve fair market value purchases for highly significant parcels that have a broad reaching public benefit.

A fair market sale may not be as advantageous for that 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 from a fair market sale, particularly for landowners in higher tax brackets who are disposing of highly appreciated property.

## Bargain Sale

One alternative to a fair market sale is a bargain sale, in which the land is sold at less than its fair market value. A bargain sale combines the income-producing benefit of a sale with the tax-reducing benefit of a donation. It can also avoid the expense of a sale on the open market. The difference between the land's appraised fair market value and its sale price is considered a charitable donation to the land trust and can be claimed as an income tax deduction.

## How a Bargain Sale Affects Federal Income Tax

Tax law treats a bargain sale as being in part a taxable sale and in part a charitable donation, provided that the parties to the transaction clearly state their intent that it be treated as a partial charitable contribution. The sale may be subject to capital gains tax; the charitable donation results in an income tax deduction.

For example, say a couple purchased a farm in 1950 for \$20,000 (the "basis"). By 2015, the fair market value of the farm had increased to \$500,000. They sell the farm to a land trust for \$200,000. The charitable donation is considered to be the difference between the fair market value of the land and the sale price (\$500,000 - \$200,000 = \$300,000). The capital gain is a bit more complicated. Whereas in a regular fair market sale the capital gain is the sale price minus the basis, in a bargain sale the capital gain is the sale price minus that portion of the land's basis equal to the ratio of the value of the land to the sale price. Here is the math:

$$\begin{aligned} \$200,000 \text{ (sales price)} / \$500,000 \text{ (land value)} &= 0.40 \\ \$20,000 \text{ (basis)} \times 0.40 &= \$ 8,000 \text{ (proportion of basis applicable to sale)} \\ \$200,000 - \$ 8,000 &= \$192,000 \text{ (taxable gain on sale)} \end{aligned}$$

As a result of the bargain sale, the landowners will owe tax on a capital gain of \$192,000 but also will receive a \$300,000 deduction for a charitable donation.

## THE IMPORTANCE OF CONTRIBUTING TO NEWLT'S STEWARDSHIP FUND

Conserving property, especially through a charitable gift, is a major commitment for any landowner. Accepting a conservation easement or conservation property is a major commitment for the land trust, as well. The land trust assumes the legal responsibility of permanently conserving the property's conservation resources it is important to keep in mind that, while a conservation easement may have substantial value, because it is not a salable asset, it typically represents a liability for a land trust. The same is true for conservation land that must be protected rather than sold.

Landowners who donate land or easements are commonly asked to help ensure that the land trust can indeed conserve the property forever by contributing to a permanent stewardship fund. If a contribution is not possible at the time of the gift, the landowner may be asked to pledge the contribution over several years or in exceptional circumstances the land trust may forego it and raise the necessary funds from other sources.

## INDEPENDENT ADVICE

Northeast Wisconsin Land Trust can provide an array of information and assistance, but there are a number of things we cannot do. The Land Trust cannot provide legal or financial advice or guarantee that a particular conservation plan is best for your personal and financial circumstances. Land trusts cannot state unequivocally that a particular conservation easement will qualify for a tax deduction or say how much the deduction will be. You must get your own independent advice from knowledgeable attorneys and financial advisors, and, of course, you are responsible for the final decision.



*Spikeborn Creek - 190 Acres -  
Marinette County*

## OTHER RESOURCES

### CONSERVATION ORGANIZATIONS AND AGENCIES

Wildlife/Habitat Conservation Programs  
Department of Natural Resources  
Wildlife Biologist 110 S. Neenah Ave.  
Sturgeon Bay, WI 54235 (920) 746-2860  
Wildlife Biologist (920) 755-4983

U.S. Department of Agriculture Natural Resources Conservation Service 925 Marquette St.  
Kewaunee, WI 54216  
(920) 388-2792

US Fish and Wildlife Service  
1015 Challenger Dr. Green Bay, WI 54311 (920) 433-3803

Forestry Management Programs  
Department of Natural Resources Forester  
110 S. Neenah Ave. Sturgeon Bay, WI 54235 (920) 746-2880

Door County Soil and Water Conservation Dept.  
Door County Courthouse 421 Nebraska St.  
P.O. Box 670  
Sturgeon Bay, WI 54235 (920) 746-2214

Farmland Preservation Program  
Door County Soil and Water Conservation Dept.  
Door County Courthouse 421 Nebraska St.  
P.O. Box 670  
Sturgeon Bay, WI 54235 (920) 746-2214

Plat Books available through:  
UW-Extension Door County Door County Courthouse 421 Nebraska St.  
P.O. Box 670  
Sturgeon Bay, WI 54235 (920) 746-2260

Tax parcel information and maps  
Door County Courthouse 421 Nebraska St.  
P.O. Box 670  
Sturgeon Bay, WI 54235 (920) 746-2287

Door County Register of Deeds  
Door County Courthouse 421 Nebraska St.  
P.O. Box 670  
Sturgeon Bay, WI 54235 (920) 746-2270

*“Our natural areas are private and public treasures. If you own a piece of Wisconsin countryside, woodland, or shore --which a conservation easement could preserve-- what could make your life more meaningful than giving an amazing gift like this to future generations?”*

Joel Cler and Marjorie Kenyon-Cler  
Pine River Conservation Easement  
56 Acres Conserved in Waushara County

*“I have lived on Green Bay all my life with the deer, birds, and all the wild creatures. When I’m gone I want this land to become a nature preserve that will protect the wild creatures and the land forever.”*

Dan Szczepanski  
Green Bay West Shore  
69 Acres Conserved in Brown County

