

Land Trusts

The surest methods for permanently protecting land involve acquisition of property rights by land trusts. It is the use of conservation easements that most clearly defines a conservation organization as a land trust. Land trust efforts revolve around working cooperatively with landowners and crafting projects with win-win outcomes for communities.

As of the end of 2007, 476,550 acres of Pennsylvania have been protected by Pennsylvania land trusts.

Land trusts vary in character and priorities. Most land trusts are private charitable corporations. Some are governmental or quasi-governmental agencies that operate with much of the flexibility and freedom of a private land trust. Some land trusts are quite small, run entirely by volunteers, doing their work in just one municipality or small watershed. Some utilize large staffs of professionals and work region or nationwide.

Some land trusts own and operate preserves and recreation areas open to the public. Others own no land at all but hold conservation easements, which protect certain natural values on properties. Others work to acquire and then transfer critical land to government for use as parks, game lands, etc.

Land trusts may have one or more conservation priorities. They may conserve land to protect our rivers, streams and groundwater. They may protect community open space for new parks, scenic views, wildlife preserves or neighborhood gardens. They may conserve productive farmland or working forests. Some focus on protecting biodiversity while others preserve traditional hunting grounds.

More than 1,200 land trusts work in all fifty states, conserving land using a variety of techniques. Eighty of these organizations work to protect Pennsylvania's special places. Regardless of size, methods and priorities, land trusts share a commitment to conserving important lands for future generations. Land trusts can also work on land use planning, nature education, trail development, and other areas.

The three methods that land trusts protect land are conservation easement, fee simple ownership and reconveyance.

A Conservation Easement: A conservation easement is a legal agreement between a landowner and a conservation organization that limits certain specified uses on all or a portion of a property for conservation purposes while leaving the property in the landowner's ownership. Easements are almost without exception of perpetual duration. They are recorded at the county office where all deeds are recorded, and the easement's terms are binding on all future owners of the eased parcel.

Through the use of a conservation easement, landowners may still retain the right to use their property for many different purposes, subject to local zoning and public health and safety requirements. For example, an owner can plant trees or cut them down, build buildings or demolish them, grow crops or dig holes, allow public access or prohibit it, subdivide the property, etc. To understand the conservation easement concept, it is helpful to think of these rights as a bundle of rights. A landowner may donate or sell the whole bundle, or just one or two of the rights in the form of a conservation easement.

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Every conservation easement is unique, the terms of the easement tailored to the particular property and to the particular needs and goals of the landowner and conservation organization. An easement might state, for example, that no building or road may be placed within 200 feet of a stream passing through a property but allow for a house to be built on another portion of the same property. Another easement might permit farming on a property but forbid residential, retail and industrial development. Yet another easement may prohibit all activities except for sustainable forestry and recreation. The flexibility and applicability of conservation easements is nearly endless.

A variety of model easements have been developed through DCNR and the Pennsylvania Land Trust Association for various types of conservation goals – these documents may be downloaded at conserveland.org and include:

Conservation Easement: Provides for a comprehensive level of protection with flexibility to customize for specific conservation needs.

Trail Easement: Provides specific language for developing a right of way agreement for public access of a linear tract of land for recreational purpose.

Riparian Forest Buffer Protection Agreement: A single-purpose document, designed for protecting a narrow ribbon of land along a waterway. The model could be used in combination with or independent of CREP.

Fishing Access Agreement: Model easement provides a framework for conservation organizations and governmental entities to build cooperative relationships with private landowners to ensure responsible fishing opportunities for the public while keeping properties in the control of the owners.

Water Quality Improvement Easement: Help secure long-term access through and to property for the purpose of remediating the effects of abandoned mine drainage.

Fee Simple Title Ownership: Fee ownership involves full acquisition of the land and enables the land trust to control all aspects of use and management of the property and its resources. With Fee simple ownership, a land trust may provide the strongest guarantee of long-term conservation. However, because fee ownership may be costly or require additional resources, it is not always the best option or even a viable one.

Reconveyance: At times a land trust may operate as a third party, first acquiring the land from the original owner and then transferring the ownership of the property to another entity for the sole purpose of conservation. Usually this entity is a governmental unit such as a state agency or municipality but sometimes it is another land trust.

According to the 2007 census data collected from the Pennsylvania Land Trust Association, 2,233 conservation easements are held by 62 land trusts across the state. Sixty percent of Pennsylvania's land trusts are operated entirely by volunteers. Half of the Pennsylvania land trusts that exist today were formed after 1989.

For additional information regarding land conservation, including current data on conserved lands in Pennsylvania, visit the Pennsylvania Land Trust Association's website at www.conserveland.org.

What is an Environmental Advisory Council?

An Environmental Advisory Council is a group of 3-7 community residents, appointed by local elected officials, that advises the local planning commission, park and recreation board and elected officials on the protection, conservation, management, promotion and use of natural resources within its territorial limits.

Municipalities are authorized to establish EACs through Act 177 of 1996, originally Act 148 of 1973.

EAC members devote time and energy to assist elected and appointed officials in protecting the environment. They can act on a municipal or multi-municipal level.

For more information, review the EAC Handbook available at www.eacnetwork.org.

Why are EACs a priority for Pennsylvania?

Through the legislature, Pennsylvania has chosen to delegate much of its power to regulate land to the local government. As a result, the Commonwealth of Pennsylvania has over 2,560 local governing bodies. The decisions these governing bodies make on a variety of issues, from land use designations to stream corridor protection, have direct impacts on natural resources within individual municipalities and beyond. EACs, as part of local government, work directly with municipal officials to help them make environmentally sound decisions - and protect the health and quality of life of our communities.

Where are there other EACs in Pennsylvania?

As of 2008, there are over one hundred EACs in Pennsylvania and they are continuously being formed. To locate EAC's across the state, use the interactive map at www.eacnetwork.org/map.asp.

What do EACs do?

In accordance with Act 177, EACs are authorized to:

- Identify environmental problems and recommend plans and programs to protect and improve the quality of the environment;
- Make recommendations about the use of open land;
- Promote a community environmental program;
- Keep an index of all open space areas to determine the proper use of such areas;
- Review plans, conduct site visits, and prepare reports for municipal officials; and
- Advise local government agencies about the acquisition of property.

What don't EACs do?

- EACs do not regulate; they are advisory only.
- EACs do not take the place of or compete with planning commissions or park and recreation boards; they augment and work closely with them.
- EACs are not activist or extremist environmental groups—they are part of the local government and accomplish the most when they work well with local officials.
- EACs do not compete with local grass-roots organizations, such as watershed associations.
- They are contact points and local government liaisons for these groups.
- EACs do not add bureaucracy to the local government- they have an organized procedure for participating in land use decisions.

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- While municipal officials have a high demand for their time and attention, an EAC can devote their full attention to environmental protection. EACs help municipal officials make environmentally sound decisions.
- EACs serve as liaisons to represent both the community and decision makers.
- EACs are a focal point for funding and raise money for projects.
- EACs engage residents, community volunteers, and the private sector in natural resource protection.
- EACs work on a multi-municipal level to reflect natural rather than artificial municipal boundaries.

Source: www.eacnetwork.org