

Taking the Stewardship of Your Land to the Next Level

The Little Traverse Conservancy encourages landowners to go beyond the protection afforded by your conservation easement and actively manage or restore your land. Some actions you can take may include improving wildlife habitat, reforesting portions of your land, adding natural landscaping, taking measures to prevent erosion, or working to control exotic species.



Sarah Mayhew

There are many non-profit and governmental organizations in Michigan that can provide information and assistance to help you manage the natural resources of your private property. Some programs even provide funding to implement certain conservation practices. The list below shows just a few contacts to get you started. Visit the stewardship page of our website, www.landtrust.org, for more links. If you have a question about resource protection and management of your land, please don't hesitate to contact our stewardship staff.

Tip of the Mitt Watershed Council
231.347.1181
www.watershedcouncil.org

Conservation Resource Alliance
231.946.6817
www.rivercare.org

Michigan Association of
Conservation Districts
231.876.0328
www.macd.org
Check website for your
County's local office

Michigan State University Extension
517.355.2308
www.msue.msu.edu
Check website for your
county's local office

The Stewardship Network
www.stewardshipnetwork.org
734.996.3190

Michigan Department
of Natural Resources
www.michigan.gov/dnr

Conservation Easement Newsletter
A newsletter is sent to all conservation easement landowners annually to provide updates on monitoring and other easement stewardship activities and issues.



Todd Parker

Upholding Our Commitment to the Land...

A Stewardship Guide for
Conservation Easement Landowners



provided by the
LITTLE TRAVERSE CONSERVANCY

2007 edition

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The Conservation Easement Program

In 1986, the Little Traverse Conservancy initiated its conservation Easement Program to offer an additional land protection option to landowners in northern Michigan. By 2007, more than 14,500 acres of northern Michigan land had been protected utilizing this land protection tool. Scenic views, lakeshore, sand dunes, valuable wetlands, agricultural land, threatened and endangered species, wildlife habitat, and other significant natural areas are forever protected for future generations, thanks to conservation easements.

Protection begins with the signing and recording of the easement, but continues long beyond. There are a number of necessary obligations and important actions on the part of both the landowner and the Little Traverse Conservancy to ensure a successful easement program. Most important are a good relationship with open communication and an ethical commitment to ongoing protection of the land in accordance with the terms of the easement.

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The purpose of the Little Traverse Conservancy is to protect the natural diversity and beauty of northern Michigan by preserving significant land and scenic areas, and fostering appreciation and understanding of the environment. Our work is made possible by donations to both general operations and specific projects. Gifts of cash, stocks, real property, and bequests are all welcome, and are tax-deductible.

Little Traverse Conservancy
3264 Powell Road
Harbor Springs, MI 49740
231.347.0991
www.landtrust.org



For lands purchased with a conservation easement already in place, the purchase price may have been a major factor in determining how much the land is worth, and subsequently the assessed value and the tax bill. Buyers that purchased easement protected property were, in effect, establishing the fair market value of these lands, a factor that did not go unnoticed by tax assessors.

What does the new law mean? The new state law eliminates the reassessment on easement-protected land and thus assures families and successive owners that property taxes will increase only at inflation or 5%, whichever is less. Over time, this can represent a huge savings in property taxes and can help ensure that future generations will be able to afford to maintain a family farm or other protected property. Again, please remember that buildings and other structures are excluded from the new law.

This is great news for landowners with conservation easements! It means that even when land is transferred, the new owner's taxes will be based on the older (presumably lower) taxable value. This will make it easier to keep land in the family, it will make easement-protected lands more attractive to conservation buyers, and, most importantly, it will bring more land under the protection of conservation easements.



Property Taxes and Conservation Easements

It is widely acknowledged that conservation easements reduce the fair market value of land. What is more difficult to determine is whether the reduced value will result in reduced property taxes. It is important to note that a new law that took effect January 1, 2007 allows taxes to remain capped on property protected with a conservation easement even when a transfer of ownership occurs. Certain exceptions do apply for example when buildings are present or where new construction is permitted.

How did it work before the new law? For most land in Michigan, property taxes remain “capped” as long as the property does not change hands. In other words, taxes are only allowed to increase by a small percentage each year until there is a new owner, at which time taxes typically jump up to a level consistent with the land’s current fair market value. The result is that new owners usually pay much higher property taxes than the previous owner.

In the past, these same conditions applied to land protected with a conservation easement. In most cases, landowners donating a conservation easement obtain a “before and after” appraisal for the property. (This is actually a requirement when pursuing an income tax deduction for a conservation easement donation.) The “after” appraised value is usually less than the “before” value. As such, it would seem that a landowner might be able to make a successful case with the local tax assessor for reducing the assessed value (and consequently, realizing a reduction in property taxes). However, this is often not the case.



Umlor Conservation Easement
Charlevoix County

Baseline Documentation

A baseline documentation report (“baseline”) is created for every new conservation easement as part of the land protection process. This document records the physical condition of the land at the time of the easement’s creation, including buildings and other constructed features. It consists of written text, maps, and photos and is reviewed and signed by both the easement landowner and the Conservancy. It is an important part of the conservation easement process, is required by law, and is a necessity in case there is a tax audit. The baseline functions to assure both the Little Traverse Conservancy and the easement landowner that the requirements of the easement can and will be upheld. Stewardship staff uses the baseline each year when monitoring your property, either on land or from the air.

Both the Conservancy and the landowner receive an original copy of the baseline. We suggest that you keep your copy in a safe but easily accessible location so that you can use it to determine prohibited actions or reserved rights that you are allowed, and to see when the Conservancy requires notification or approval for your activities.



Harwood Lake
Conservation Easement
Charlevoix County

Monitoring

Monitoring is critical to the continued protection of the natural resources safeguarded by the conservation easement. Monitoring establishes a record of responsible stewardship, detects violations early, and helps maintain good Conservancy and landowner relations.

It requires staff to visit each easement property, observe the boundaries and interior of the easement property, and document any changes. Little Traverse Conservancy monitors conservation easements at least annually utilizing both ground and aerial monitoring methods. The monitoring method used depends on the size and location of the easement and whether or not reserved rights have been exercised on the property since the last monitoring visit. The larger and more remote easements that are typically monitored by air must also be monitored by ground periodically.

Monitoring typically takes place in the spring or fall when leaf cover is minimal and snow is absent. Little Traverse Conservancy notifies easement landowners by mail well before the monitoring visit. Landowners are welcome to accompany staff on monitoring visits, except during aerial monitoring (we all wouldn't fit in the plane!). Conservation easement monitoring reports are prepared and kept in a file as part of a continuous record of easement properties.



Chute Conservation Easement
Cheboygan County

Funding

Accepting conservation easements on property is a long-term commitment by the Conservancy. It requires the professional and financial ability to guarantee continued protection of the natural resources easements are designed to protect. Creating baseline documentation reports, visiting each conservation easement at least annually, writing and sending reports, documenting changes in easements, following up on all violations and, as a last resort, prosecuting violations in court, all require staff time, office and field equipment and the funds to support such work.

The Little Traverse Conservancy has established an endowment fund to ensure the financial ability to manage, monitor, and enforce its conservation easements. Landowners are encouraged to contribute to this endowment fund to help ensure the Conservancy's financial viability for the long-term stewardship of every easement property. While an endowment contribution is not required in order to place an easement on a property, a contribution based on ability is highly appreciated. Endowment contributions can be made at the time the easement is donated, or an amount can be pledged and paid over a period of years. Donors can also make contributions to the Conservancy's endowment fund in their will.

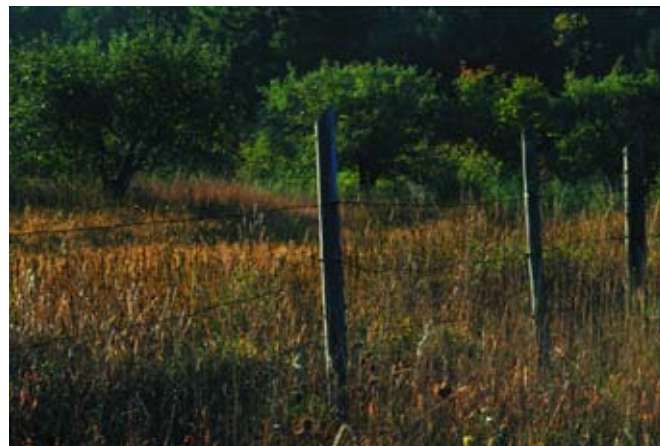


Stewart Creek South Conservation Easement
Cheboygan County



Change in Ownership

As time passes, more and more conservation easement properties will change ownership. In order to provide continuity and ensure the best safeguards for the conservation easement the donors placed on their land, landowners conveying their property should inform the Conservancy that their easement property has been sold and provide the names of the new owners. The baseline documentation report should be transferred to the new landowners as well. It is very important that prospective or new landowners of property with a conservation easement in place are fully aware of the easement, what it means, its restrictions, and the Conservancy's monitoring procedure. When the new landowners are identified, the Little Traverse Conservancy will contact them, introduce the organization, make certain the conservation easement is understood, explain our stewardship program, and answer any questions the new owners may have. Establishing contact quickly with new landowners will help minimize potential problems and future violations, ensuring continued protection of the natural resources the original donor and Conservancy so carefully planned.



Ruonavaara Conservation Easement
Emmet County

Boundaries

Establishing the boundary location of a conservation easement property and associated areas where additional construction is allowed ("building envelopes") is essential to ensuring that all parties understand the land area covered by an easement. Identifying boundary locations is also critical for preparing the baseline report and for annual monitoring purposes.

The Little Traverse Conservancy utilizes existing survey lines and markers, county parcel data, maps, field visits, aerial photos, compass, and GPS for locating easement boundaries during field visits. Marking the boundaries facilitates easement monitoring and readily allows current and subsequent landowners – and neighbors – to know where the easement borders are. Boundary marking is not required at this time, but landowners are encouraged to mark the perimeter, if possible, or at least the corners of their easement property with a durable marker. We are happy to offer recommendations on how to do this most effectively.



Martinchek Conservation Easement
Charlevoix County

Exercising Reserved Rights

All conservation easements allow certain basic rights to be retained by the landowner, and some easements may include additional reserved rights. Examples include the ability to divide the property, construct additional buildings, create or maintain trails or roads, manage timber, or farm the land. Every easement is unique. Please read your conservation easement or contact us to determine if a particular activity is permitted.

In many cases, prior consent by the Conservancy is required before the landowner builds structures, harvests timber, or exercises other reserved rights. Often the landowner is required to submit plans to the Conservancy describing the activity. The Conservancy reviews the plans to make sure that the activities comply with the terms of the easement, and, if they are not in compliance, we will work with the landowner to refine the plans. It is very important for the landowner to contact the Conservancy before exercising reserved rights, as it is often during these times of modification of the land that misunderstandings occur and violations of the easement can result.

All exercised reserved rights are photographed, documented, and kept in a permanent file.

Violations

Vigilant stewardship and strict, consistent, and fair enforcement of the provisions of conservation easements is necessary to protect the conservation values of the easements entrusted to us. Effective education of, and communication with, conservation easement landowners – not restoration, mitigation, or litigation – are the most effective ways to ensure the long-term protection of our easements' conservation values. Even so, easement violations will undoubtedly occur.

Because each easement is unique, violations can take many forms, from minor, inadvertent infractions like dumping leaves or placing signs, to major issues like extensive tree cutting, excavation, or building in the wrong spot. Please thoroughly read your easement to determine which activities are allowed or prohibited on your property, and don't hesitate to contact us if you need help interpreting the easement. We take violations very seriously and in most instances will ask for voluntary restoration or reparation, but have and will resort to litigation when necessary. It is our utmost goal to communicate and cooperate with easement landowners, and we have found that in almost every case violations can be resolved without litigation.



All of these activities are examples of reserved rights that may be allowed on conservation easements. If these activities were to be undertaken on an easement that does not permit them, they would be considered violations. What does your easement allow?