

Leave a Legacy with a Conservation Easement



Legacy Land Trust can help you accomplish your land protection goals.

Legacy Land Trust is dedicated to enabling landowners and others to achieve the shared goal of preserving Northern Colorado's rich natural and agricultural heritage. Legacy Land Trust is a private non-profit regional land conservation organization established in 1993, and is qualified as a public charity under Section 501(c)(3) of the Internal Revenue Service code. We are members of the Land Trust Alliance and the Colorado Coalition of Land Trusts.

Our Mission

Legacy Land Trust mission is to conserve and protect key natural, scenic and agricultural lands in northern Colorado that make this region a special place to live and work.

Protected Lands

Legacy Land Trust has completed 104 conservation projects protecting over 37,000 acres of agricultural lands, wildlife habitat, wetlands, scenic views and open space in Northern Colorado.



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Project Checklist

1. At the initial conference, representatives of the Legacy Land Trust will meet with the landowner(s) to discuss the landowner's goals for the property and to review the purpose and general content of the conservation easement. Please note that large parcels may be conserved in installments and partnerships with other trusts may be formed, as appropriate.
 - A. Review the Project Proposal and Letter of Intent (See enclosed)
 - B. Review the Stewardship Endowment policy and discuss other expenses.
 - C. Review the conservation easement process.
 - D. Discuss any future intended uses, such as additional structures or portions of land retained for other purposes.
 - E. Share information and referrals as appropriate.
2. If the landowner desires to move forward with the easement process, the landowner should sign the Letter of Intent and return it to the Legacy Land Trust, accompanied by a \$500 administrative fee. These monies help to defray the costs of Land Trust staff and attorney time to conduct initial research on your project.
3. Site visit by a staff member and perhaps members of the Legacy Land Trust's Project Identification Team (PIDT) to determine if the proposed conservation project meets the Land Trust's land conservation criteria (see enclosed).
4. If the proposed project meets the Legacy Land Trust's land conservation criteria, Land Trust staff will bring the project before the Project Identification Team, followed by the Legacy Land Trust Board of Directors, for a vote for adoption.
5. If the project is adopted, the landowner should sign the Conservation Easement Project Proposal (enclosed). This Project Contribution request is to defray the cost to the Land Trust for staff time, our attorney time, and costs associated with compiling the baseline inventory, such as photographs, the written inventory and supplies. Landowners will be requested to make a contribution of \$3,000 plus 1% of the appraised value of the conservation easement.
6. The Stewardship Endowment contribution should be agreed upon. This contribution is invested in a separate account for purposes of providing resources for stewarding the property in perpetuity. See enclosed information sheet on this endowment. This endowment is also tax deductible to the extent allowed.
7. The Land Trust staff and landowner may draft informal draft language for the conservation easement, then the Legacy Land Trust attorney will incorporate this language into a more formal draft. The landowner's attorney should be involved in shaping the final draft such that all parties reach agreement with adequate legal representation.
8. Additional documentation required:



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- A. Title insurance. The landowner will be responsible for buying title insurance for the conservation easement. The amount of insurance should match the appraised value of the easement if it is purchased; otherwise the parties will agree on an insured value. The Land Trust will contact a title company of our choosing early in the process such that they can provide a title commitment to the Land Trust and landowner for review.
 - B. Copies of any existing leases, easements or assignments.
 - C. Proof of liability insurance naming the Legacy Land Trust as additional insured.
 - D. Documentation of water, oil, gas and mineral rights, if any. If mineral rights have been severed from the property, the landowner must provide a certified geologist's report showing that it is unlikely that these minerals are economically recoverable (we can suggest geologists who are familiar with providing these reports).
 - E. Legal description of the conservation easement property as determined by a professional survey and map thereof. For development projects, a survey of the property that identifies the boundaries between the open space and designated common areas is required.
 - F. Map showing location of any reserved property rights. If building lots are to be reserved, these areas must be surveyed.
 - G. A copy of the Homeowners' Association's agreement, covenants or by-laws to the Land Trust if applicable.
9. The Legacy Land Trust will work with the landowner to develop a management plan for the protected land that will fulfill the purpose and intent of the conservation easement, be flexible in its requirements, and accommodate changing conditions. This plan will be referred to in the conservation easement document.
 10. The Legacy Land Trust will work with the landowner to prepare a baseline inventory of the existing characteristics of the property (this inventory is referred to in the conservation easement agreement). The landowner may either hire a consultant to conduct the inventory (thus reducing the Project Contribution request), or have the Land Trust do it.
 11. The Land Trust's attorney will review all documentation prior to approval by the Land Trust's Board of Directors. The Land Trust suggests review of the conservation easement by landowner's legal and tax counsel. The Land Trust's Board of Directors will vote on final approval of the project.
 12. The agreed upon stewardship endowment contribution shall be paid at time of closing or according to a stewardship endowment pledge agreement.
 13. The Legacy Land Trust and the landowner will execute the conservation easement agreement and record it with the appropriate County Clerk.



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Tax Incentives

Numerous benefits are available to landowners who make gifts of land or a conservation easement to Legacy Land Trust. The first of these is the satisfaction that comes from preserving special open spaces. Whether a farm, ranch or forest, wetlands or uplands, these lands will continue to support myriad rare plants and wild animals, and will be enjoyed by people for years to come. Aside from this conservation benefit, there may be financial incentives available to the landowner in the form of tax deductions and credits. The following is a general listing of potential tax benefits. All landowners considering a land conservation donation should consult a tax attorney or accountant for more complete information.

State and Federal Income Taxes

Gifts of land or conservation easements to a qualifying organization such as Legacy Land Trust may qualify as a charitable deduction from annual adjusted gross income. The amount of the deduction is determined by the appraised value of the gift. In the case of a gift of a conservation easement, the appraisal estimates the difference between the fair market value of the property without restrictions and the fair market value of the property with restrictions. **Under the recently updated Internal Revenue Code**, a taxpayer may take a deduction of the fair market value of the donated easement up to **50%** of his or her adjusted gross income for this type of contribution. Any amount donated in excess of this limitation may be carried forward for an additional **15 years** subject to the same limitation in each of those years. Those who earn over one-half of their income from farming or ranching may qualify for a **100%** deduction.

Beginning in 2007, the Colorado State Income Tax Credit for the donation of a conservation easement will allow a 50% credit up to a \$750,000 donation (a \$375,000 maximum credit per easement). The donor has 20 years to extinguish the credit or sell the credit to another entity. All of the credits from the conservation easement must be sold or used before another conservation easement donated by the landowner can qualify for additional tax credits. A number of tax credit brokers are available to match sellers and buyers of tax credits. Legacy Land Trust maintains a list of tax credit brokers who have handled credits generated by our conservation easements.

For more information on the state tax credits, please refer to the Department of Revenue's website.

See the Colorado Department of Revenue's FYI #39

for up-to-date information on the Colorado State Income Tax Credit for the donation of a conservation easement. This document can be downloaded in PDF format from

www.revenue.state.co.us.

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Estate Tax Benefits

Land is often the most valuable portion of a person's estate. When a landowner dies, the property is assessed at its "highest and best use" for purposes of determining estate taxes, regardless of the use of the property prior to their death. Properties protected by a perpetual conservation easement are assessed at their conservation value for estate tax purposes, resulting in significant estate tax savings. Often, protecting family land with a conservation easement can mean the difference between keeping the land in the family for future generations and being forced to sell the land to pay the estate tax.

Conservation easements have a wide variety of benefits that may or may not be of use to you and your family. Before taking any action, landowners are encouraged to seek professional advice from their tax advisors. Talk to your tax advisor about the opportunities provided by a charitable remainder trust as well.

Requirements for Charitable Deductions

The donation of a conservation easement must convey "public benefit" in order to qualify as a charitable contribution. The IRS requires that an easement meet at least one of the following criteria:

- The easement should preserve land for recreational or educational use by the general public;
- the easement should protect a relatively natural habitat of fish, wildlife, or plants, or similar ecosystem;
- the easement should preserve open space (including farm or forest land) if such preservation is a) pursuant to a clearly delineated federal, state or local policy; or b) for the scenic enjoyment of the public; or
- the easement should preserve a historically important land area or certified historic structure.

The information provided above is not meant to serve as either legal or tax advice. Please seek accounting and legal advice from professionals who are familiar with conservation easements and their legal and tax implications.



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Appraisals

In order to claim an income tax deduction, the value of the conservation easement must be determined by a qualified appraisal. The appraiser you choose should have experience with conservation easement appraisals since it is possible that the Internal Revenue Service will look closely at your claim. The Legacy Land Trust can provide you with names of appraisers who have done such work. Please check with us before hiring an appraiser to ensure they are familiar with conservation easement appraisals.

A “fully completed appraisal summary” must be reported on IRS Form 8283 and attached to the donor’s income tax return (the entire appraisal report must be submitted for charitable contributions exceeding \$500,000). Appraisals must be dated no earlier than 60 days prior to the donation of the conservation easement.

Legacy Land Trust may refuse to sign a Form 8283 in the case where an appraisal is not valid or the value claimed by the appraisal is far higher than known property values in the area. IT IS CRITICAL THAT YOU HIRE A COMPETENT AND EXPERIENCED APPRAISER.



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Conservation Criteria

Legacy Land Trust has developed criteria for the acceptance of land or a conservation easement on land. The criteria were developed to ensure that the Legacy Land Trust can act to preserve lands in a manner consistent with the Land Trust's mission, and to ensure landowners that the easement they donate is consistent with IRS requirements.

To qualify for consideration of a conservation easement, a site must be able to be justified as having value in one or more of the following categories:

1. Lands of agricultural or forestry significance.
2. Lands that have potential to be a part of community, regional or state park or greenway systems.
3. Lands that contain, or have the potential to contain, ecosystems of educational or scientific value.
4. Wetlands, floodplains or other riparian lands necessary for the protection of water quality.
5. Lands of historical value, or adjacent to lands of historical value, and those that are necessary for the protection of the items of historical interest.
6. Lands that contain endangered, threatened or rare species or natural communities.
7. Lands that contain unique or outstanding physiographic characteristics (e.g. a large rock outcropping).
8. Lands that contain wildlife habitat, exemplary ecosystems or natural features (e.g. migratory waterfowl wintering area).
9. Land that is valuable to a community as open space due to its proximity to developing areas or its prominent position in how people perceive their community (e.g. open fields on a major thoroughfare at the entrance to a town).
10. Land that, if developed, would diminish scenic views or interfere with views across already protected open space.
11. Land that is contiguous with, or in close proximity to, land that has been protected by the Legacy Land Trust or other land conservation organizations, or that is likely to be protected in the near future.



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12. Land that provides a buffer for, or corridor between, important wildlife habitats, wetlands, floodplains, or surface and groundwater supplies so that its protection would diminish the impact of dense development on these resources.

Whether the conservation of your property will meet one or more of the above categories in a significant manner is the first step of the land trust's process in deciding whether to undertake a conservation easement project. Many circumstances may lead to a Board decision not to pursue a proposed project. This decision likely reflects the Board's conclusion that the proposal does not fall within the specific management or acquisition abilities of the Legacy Land Trust at the time. Some of the circumstances that could lead to a decision not to pursue a particular project might include:

1. The property would be unusually difficult to manage either because of the cost of upkeep, access problems, size, or other situations related to the particular parcel or the Land Trust's resources.
2. There are provisions in the transaction that the Land Trust believes would significantly diminish the property's conservation values.
3. The property is not located in a priority area of the Land Trust, or is located in an area that makes annual monitoring particularly difficult and/or the conservation values of the property exceedingly difficult to protect over time.
4. The property is unalterably contaminated.

Because the Legacy Land Trust is an Internal Revenue Service 501(c)(3) charitable organization, we are able to provide possible tax benefits to those who protect open lands. At the same time, we have a legal and ethical obligation to be sure that our land protection programs result in real public benefit (this does not mean public access), and that the obligations assumed by the Land Trust can be fulfilled in perpetuity. Each potential project, therefore, is evaluated with care.



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