How is a conservation easement maintained?

The land trust or government agency holding the easement has the right and obligation to assure that the terms of the easement are being followed. To do this, the organization physically inspects the property to verify that all terms of the easement are being followed. This is usually done at least once a year and at a time that is mutually convenient for the organization and the landowner. This monitoring process is established as part of the conservation easement document.

How do I donate or sell a conservation easement?

If you are interested in donating or selling a conservation easement, contact the Middlebury Area Land Trust (MALT). The staff will evaluate your property to see whether MALT is the appropriate organization to be working with you. There are a number of land trusts and governmental entities in Vermont involved in conserving land, each of which has particular capabilities. If your land is judged appropriate for preservation, the staff will work with you to develop the terms of the easement and to create an easement document and an easement map. Because monitoring of an easement is so important, funding for maintaining an easement, including the costs associated with the continuing monitoring process, is arranged for prior to the time of donation or sale.

What are the tax advantages of the donation or sale of a conservation easement?

A landowner donating a conservation easement may deduct as a charitable contribution the difference in value of the property before the easement donation (unrestricted value) and after (restricted value). To qualify for the deduction, the property must meet certain IRS criteria to establish public, such as scenic enjoyment, ecosystems preservation, agricultural productivity, or recreation. A conservation easement may also reduce gift and estate taxes and property taxes. Since each conservation easement is unique and federal and state tax laws are complex and changing, it is important to investigate and understand the tax consequences that apply to a particular intended easement. The Middlebury Area Land Trust can help refer you to some sources of information applicable to a specific situation.

What criteria does the Middlebury Area Land Trust (MALT) use in evaluating a property for possible acquisition of a conservation easement?

MALT conserves land for a variety of reasons. Each situation is unique. Criteria for acquisition include: quality of open or scenic views, quality of farm land, quality of forest land, potential benefits to wildlife habitat, potential benefits to water quality and watershed protection, and potential recreational benefits. The acquisition of conservation easements sow the seeds of land stewardship for future generations to enjoy.

In what other activities is the Middlebury Area Land Trust (MALT) involved?

MALT developed and maintains the Trail Around Middlebury (TAM), a 19-mile walking trail that encircles Middlebury, including two pedestrian bridges over the Otter Creek. MALT sponsors walks and educational activities on the TAM. MALT is interested in expanding trail networks in Middlebury and surrounding areas. TAM also participates in efforts to increase lands available to the public for low-impact environmental recreational activities.

Are there other kinds of easements in which the Middlebury Area Land Trust (MALT) is involved?

Yes. Because MALT developed and maintains the Trail Around Middlebury (TAM), MALT holds a number of trail ‘right-of-way’ easements. As it works on expanding trail networks in the area, it will be interested in acquiring additional trail easements. These easements generally give the public the permanent right to travel by non-motorized means over a specified path through a landowner’s property. As with conservation easements, each trail easement is unique.

How do I get more information?

If you would like to discuss the conservation easement possibilities for a particular piece of land, or if you would like to learn more about conservation easements, or trail easements, for future consideration, please contact the Middlebury Area Land Trust. We will be happy to answer any questions you may have.

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Some material in this pamphlet was adapted from information provided by the Columbia Land Conservancy in the Hudson River Valley, NY.
Questions and Answers about conservation easements:

What is a conservation easement?
A conservation easement is a way to preserve the essential nature of a property by limiting the development opportunities on it. It is a legal agreement in which a landowner transfers, by donation or by sale, development rights for his or her property to a non-profit land trust or government agency, thereby protecting the land in perpetuity. Three important points about conservation easements:

- They transfer only the specified and agreed-to development rights; the owner retains all other rights of ownership. A conservation easement is not a transfer of title.
- They do not necessarily prohibit all development. Some development may be permitted as part of the easement if it (1) maintains the essential character of the property, and (2) is specified in the legal agreement. Every conservation easement is written to protect the land in ways that satisfy both the landowner and the receiving organization.
- They may entitle a landowner to income tax deductions, gift and estate tax reductions, and property tax decreases.

Will a conservation easement allow me to own and control my land?
Yes. The land remains yours. You can sell, farm, lease, mortgage, post, and otherwise use your property consistent with the terms of the conservation easement.

Does a conservation easement require me to allow public access to my land?
No. A conservation easement does not necessarily permit public access to your land. Each conservation easement is unique. In some cases, public access to some portion of a particular conserved property may be appropriate to consider. Such terms, as are all terms in a conservation easement, must meet to approval of the landowner and the receiving organization.

For more information on easement and tax benefits, other literature is available from the Middlebury Area Land Trust (MALT) office. As always before considering an easement donation or sale MALT recommends contacting your legal and tax attorney to maximize benefits to your estate.

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“A practical and flexible land preservation technique which can protect your land forever, entitle you to tax deductions, and allow limited development.

“Conserving land for our community’s future”

Sow the seeds of land stewardship for future generations to enjoy.