

Model Grant of Conservation Easement and Declaration of Covenants **Quick Start Guide**



The commentary posted with the model easement document at ConservationTools.org explains the reasoning behind each provision and provides instructions to help you deal with a wide range of circumstances. If you have a question or concern, refer to the commentary.

The commentary's **supplemental provisions** provide a wealth of optional provisions and guidance for addressing matters not otherwise addressed in the model.

Who has rights? Do you want another organization to have rights regarding the easement? If yes, list it in §1.08 and enumerate its rights in §6.06. Find sample rights in the commentary's supplemental provisions.

Public access? Do the owners want to commit to allowing a trail or other public access? If so, check out the options in the supplemental provisions.

Tax benefits? If the owners won't be pursuing federal tax benefits for a charitable donation, you may delete §1.07.

Customizing Conservation Objectives, Protection Areas, and Restrictive Covenants

The **Conservation Objectives** are the **heart of the easement**. In §1.04, the model provides commonly used, generically written objectives. Add to, delete, or modify them to match what you want to accomplish. Also, add detail regarding the resources to be protected. See the commentary for examples.

The model allows you to **set different protections for different areas** of the property—Highest Protection, Standard Protection, and Minimal Protection. **Use one, two, or all three** of the protection levels. The model's default language provides for all three; the commentary instructs what to do if you only want to use one or two.

Articles 2 through 5 contain a generic set of **restrictive covenants**. Modify them to match your Conservation Objectives. Following best practices informed by decades of drafting experimentation and stewardship experiences, the covenants prohibit all uses except for those listed in the grant. By doing so, the covenants provide owners and holder with a clear picture of everything that may be done on the land.

A use that is likely to be problematic if conducted poorly or at too high a frequency or intensity can be made conditional, subject to holder's approval following the process for **Review** set forth in the model. (Uses—perhaps not yet invented—unanticipated during the drafting process may be approved by holder after Review.)

Numerical limits regarding impervious cover, etc., serve as **placeholders, not recommendations**. Adjust them to fit the project.

It is generally unwise to modify articles 6 through 9. Do not do so without careful research, reflection, and consultation. Unlike the content of articles 1 through 5, much of which depends on the character of the land and the goals of the holder and owners, the later articles address administrative matters applicable to all properties and have been refined to reflect decades of experiences.

Related resources at ConservationTools.org

- *Model Conservation Easement Donation Agreement*
- *Model Stewardship Funding Covenant*
- *Model Consent, Non-Disturbance, and Subordination Agreement*
- **Dozens of other models and guides**

The model and commentary save you the legal costs of reinventing wheels. However, be sure to involve legal counsel before completing a project. A good attorney will ensure that, given particular circumstances, the easement document does what you intend it to do.