



Wisdom From the Past... For the Future

"The growth of Minneapolis and St. Paul into one great metropolis is as certain as the existence of the vast wealth lying in the regions beyond... If you have faith in the future greatness of your city, do not shrink from securing while you may such areas as will be adequate to the wants of such a city. Do not be appalled at the thought of appropriating lands which now seem too costly, simply because they are far out of proportion to your present wants..."

Look forward a century, to the time when the city has a population of a million, and think what will be their wants. They will have wealth enough to purchase all that money can buy, but all their wealth cannot purchase a lost opportunity, or restore natural features of grandeur and beauty, which would then possess priceless value, and which you can preserve for them if you will but say the word and save them from the destruction which certainly awaits them if you fail to utter it."

From Horace H.W. S. Cleveland's "Suggestions for a System of Parks and Parkways for the City of Minneapolis," dated 1882

Minnehaha Creek Watershed District

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Conservation Easements

What is a Conservation Easement?

A *conservation easement* is a legally recorded, voluntary agreement by which people may limit certain uses of their land. Conservation easements can be used to protect agricultural land, forested land, lakeshore, riparian areas, wildlife areas, wetlands and other scenic or natural lands. Conservation easements can be held by conservation organizations or local units of government.

The Minnehaha Creek Watershed District (MCWD) holds conservation easements on strategic lands that can help protect the quality of water resources. If you donate an easement, you may be eligible for income, estate and/or property tax benefits. We require that the easement must provide a public benefit, such as protecting wetlands and other water bodies or wildlife habitat. Public access is **not** a requirement.

The MCWD only acquires **permanent** conservation easements.

What are the Financial Benefits of a Conservation Easement?

The Minnehaha Creek Watershed District acquires conservation easements in three ways:

- **Donations:** if you donate an easement you may qualify for income, estate, and/or property tax benefits (see sidebar on page 2).
- **Bargain Sales:** if you sell a conservation easement at a discounted price, you can receive cash payments (lump sum or over time) and you may qualify for income, estate, and/or property tax benefits.
- **Direct Purchase:** you can receive lump sum or installment payments (which may have added tax benefits) for selling a conservation easement. This option may also qualify for property tax benefits.

What Effect Does This Agreement Have on My Property Rights?

If you convey a conservation easement, you retain all rights to use your land for any purposes that do not interfere with the conservation of the property. You retain the title to the property, the right to sell it, the right to restrict public access, and the right to give it to whomever you choose.

The rights to develop a property may be (but not always are) restricted in a conservation easement. The terms of a conservation easement are individually tailored to reflect your particular needs, situation and

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What Effect Does This Agreement Have on My Property Rights?

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property. For example, you may want to prevent any future development. Another landowner may want to reduce the number of homes that may be built on a certain parcel (beyond what is allowed by current zoning). A third landowner may want to ensure that any development on the property is located away from sensitive natural resources. The easement can be written to apply to the entire property or to only a portion of it. Other allowed and restricted uses are also specifically identified in the terms of the easement.

How is the Easement Value Determined?

Land ownership is like owning a variety of separate rights on your property. These rights may include, but are not limited to, the right to farm your land, the right to build on your land, and the right to exclude the public from your land. When a conservation easement limits any of these rights, the value of your land is affected. Value is determined by having a 'before' and 'after' appraisal completed by a qualified appraiser. Land is first appraised in light of its full development potential. Then it is appraised again, taking into account the easement restrictions. The value of the easement is the difference between these two figures.

In instances where the easement is donated and qualifies under IRS regulations, this amount also is the value of a charitable contribution which can be taken as an income tax deduction.

What Criteria Must Be Satisfied?

To be eligible for most of the above tax benefits, you must enter into the agreement with a qualified conservation organization or local unit of government, such as the Minnehaha Creek Watershed District. In addition, the terms of the easement must be perpetual (no end date) and they must meet other IRS requirements. The Minnehaha Creek Watershed District must evaluate each potential easement to determine if it is appropriate for the District to acquire it.

What Rights Does the Easement Holder Have to My Land?

If the Minnehaha Creek Watershed District accepts a conservation easement on your land, we are obligated to oversee and enforce the easement's terms and conditions. For example, the District has the right to enter and inspect the property (usually once a year) to ensure that the terms of the agreement are being upheld. Except in unusual circumstances, these visits are scheduled with the landowner. For certain easements, the District may desire the right to manage certain sensitive natural resources such as wetlands. Unless specifically provided for, the easement does **not** allow public access to the property since it remains privately owned.

Please call the Minnehaha Creek Watershed District at 952-471-0590 to learn more about conservation easements and associated financial benefits.

Land Conservation Program

Tax Benefits of Donated Conservation Easements

Federal Income Tax Benefits

Under the IRS code, the donation of a qualified conservation easement may be treated as a charitable contribution. The value of the contribution can be deducted at an amount up to 30 percent of the donor's adjusted gross income in the year of the gift. If the easement's value exceeds 30 percent of the donor's income, the excess can be carried forward and deducted (again, subjected to the 30 percent limit) over the next five years, if needed.

Estate Tax Benefits

Donation of easements, whether during the landowner's life or by bequest, can reduce the value of the land upon which estate taxes are calculated. In addition, up to 40% of the already reduced land value may be excluded from the taxable estate (to a maximum of \$500,000). In many cases, this results in more after tax value to heirs than passing the land on to them without an easement. The estate tax benefits of a conservation easement can often mean the difference between heirs having to sell property to pay estate taxes or being able to keep the property in the family.

Property Tax Benefits

The conveyance of a conservation easement **may** reduce a landowner's property taxes. This depends on current zoning and land use, current assessed value, and whether the owner participates in a current-use assessment program like Green Acres or Metropolitan Agricultural Preserves Program. Under Minnesota law, county assessors must take a conservation easement into consideration in establishing the market value of the land subject to the easement. However, existing tax basis, assessed value, and current zoning of each piece of property are important factors in determining the potential benefits of any easement. The exact terms of each individual easement also have a bearing on its effect on property taxes.