



Fact Sheet

CONSERVATION EASEMENTS

What is a Conservation Easement (CE)?

- A CE is a voluntary legal agreement between a grantor (landowner) and holder (conservation organizations, government agencies or rural municipalities) that is registered against the title for a specified time or in perpetuity.
- The terms of the agreement are negotiated to meet the interests of the landowner and the conservation objectives of the holder, with the main objective being to protect and preserve the biological, physical and cultural attributes of the land.
- It is an opportunity for a landowner to formalize their commitment to long-term conservation of their land that ensures the land will continue to have careful stewardship by future owners.

What is the legal status of a CE?

- A CE is a legal document that is registered on the title and binds all future owners.
- Once a CE is registered on the title, it can only be removed by mutual consent of the parties (grantor and holder) if the conservation values are no longer met. A CE can also be terminated by the Court of Queens Bench if the landowner can prove severe hardship.
- The only method of ‘modifying’ a CE is to cancel the original agreement and register an amended version that is mutually agreeable to both parties and is consistent with the original intent for the long-term conservation of the property.
- Each CE is unique and its conditions are negotiable. Activities, not specifically prohibited within the conditions, are allowed.

Who is eligible to hold a CE in Saskatchewan?

- All levels of government
- Ducks Unlimited Canada
- Meewasin Valley Authority
- Nature Conservancy of Canada
- Nature Saskatchewan
- Saskatchewan Archaeological Society
- Saskatchewan Parks and Recreation Association
- Saskatchewan Watershed Authority
- Saskatchewan Wildlife Federation
- Wakamow Valley Authority
- Wascana Centre Authority

What are the benefits to a private landowner?

- The main benefit is the assurance that the property will remain in a natural state, regardless of who owns the property in the future.
- It is an opportunity for a landowner to create a legacy for future generations, without giving up private ownership or the use and enjoyment of the land.
- The land may be passed down through a family or sold to any purchaser willing to uphold the CE agreement, all with the assurance that the holder is legally empowered to monitor and enforce the conditions set out in the CE.
- The grantor may receive an income tax incentive on a donated CE, or receive income on a paid CE.



Under what conditions can a CE be granted?

- A CE can be granted to:
 - protect, enhance or restore natural ecosystems, wildlife habitat or habitat of rare, threatened or endangered plant or animal species;
 - retain significant botanical, zoological, geological, morphological, historical, archaeological, or palaeontological features;
 - conserve soil, air and water quality.
- The CE may be applied to the entire property or just a portion of the property containing the significant natural features.

Who can grant a CE?

- Any landowner may grant a CE.
- More than one CE can be granted on the same parcel of land if there are no conflicts between the rights and privileges granted and the obligations imposed by the different CEs.

How restrictive is a CE?

- CEs are voluntary and are negotiated by the grantor and holder.
- Most grantors will negotiate terms that enable traditional land uses to continue.

- The terms of a CE are negotiated depending on the purpose and goals of the agreement.

Who enforces the obligations of a CE?

- Through the Court of Queen's Bench, obligations may be enforced by the holder, the grantor, a subsequent owner of the land, or at the Court's discretion, an eligible holder.

Who controls public access on lands with a CE?

- The CE provides the holder access for inspection purposes, however, landowners still retain control of public access.

Can a CE be transferred?

- A CE can be transferred to another eligible CE holder.
- It is advisable to consult with the holder to identify a mutually acceptable alternate CE holder.



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What is a paid CE?

- A conservation agency may offer to compensate a landowner for a CE.
- Typically, the value of a paid CE is linked to the fair market value of the property, based on the CE's conditions, and as determined by an accredited appraiser. The process for determining the value of a paid CE can vary slightly between agencies.

What are the tax implications of a CE?

- A landowner that donates a CE may be eligible for special income tax incentives.
For more information, please refer to the Ecological Gifts Program:
<http://www.cws-scf.ec.gc.ca/egp-pde>
(306) 780-5322.
- A property's municipal tax base is not affected by a CE. In most cases, land uses do not change.

What should landowners consider before signing a CE?

- Signing a CE in perpetuity may affect your resale value and what future owners can do in terms of developing yard sites, cultivation, use of chemicals, as well as commercial, residential, and industrial development.
- Check with your financial institution about whether a CE will affect your ability to use the land as collateral. A CE is an encumbrance (a charge on the property).
- Make sure you know who has access to the CE and who will conduct the monitoring of the CE.
- A CE may have income tax ramifications. It is important to seek professional financial and tax advice.
- Determine if the CE allows flexible management to work around droughts and other natural disasters.
- Learn what activities are allowed. Any use that does not compromise the integrity of the natural habitat may be allowed. Examples include: hunting, outfitting, ecotourism, grazing, hay storage, water development, fence construction and trail development.
- Learn what activities are restricted. Examples include: cultivation; introduction of tame forage species or noxious weeds; and residential, commercial and industrial development. Limits can be put on commercial logging, yet timber and firewood can be removed for personal use. A CE does not necessarily restrict approved development projects such as mineral exploration.
- In most cases, yard sites should not be included in a CE.
- It is important for the CE holder to monitor the CE on a regular basis or the CE could be invalid.
- Determine who benefits from the Ecological Goods and Services derived from the land, and the monetary credits from possible greenhouse gas mitigation, carbon credits, native prairie biodiversity and endangered species protection.





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The Conservation Easement Act

- *The Conservation Easement Act* came into effect in Saskatchewan in 1997.
A copy of the legislation is available at Queen's Printer: www.qp.gov.sk.ca.

CE Information:

- <http://www.environment.gov.sk.ca/programs-services>. Click "**Land**" then "**Conservation Easements**" or "**Fish and Wildlife Development Fund (FWDF)**"

Please remember that each situation involving a CE is unique. Whether the CE is donated or purchased, it is recommended that the landowner seek independent legal and tax advice.