

# LEAVING A LEGACY *for* FUTURE GENERATIONS

*A Guide to Conservation Options*

*For Landowners*



**SOUTHERN MADISON HERITAGE TRUST**

**A 501 (C) 3 NONPROFIT LAND TRUST**

This handbook has been prepared by the Southern Madison Heritage Trust. (SMHT). Established in 2001, our mission is to conserve, for public benefit, the natural resources in and around the townships of Brookfield, Eaton, Georgetown, Hamilton, Lebanon, and Madison in Madison County, New York. These resources shall include land, water, unique habitats, scenic landscapes, farmland, recreational sites, and historic features. SMHT will conserve such resources through land stewardship, public education, and support of practices and policies that advance natural resources conservation.

June, 2007

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### **Primary Service Region:**

Six towns in southern Madison County, New York:  
Brookfield, Eaton, Georgetown, Hamilton, Lebanon and Madison

**Southern Madison County** has many natural resources, physical features, and historic assets that contribute to make this area an outstanding location in which to live and work. The valued features we wish to protect are of immense importance to the general quality of life for the entire community.

As a result of the importance of agriculture and the distinctive topography, the land itself is of primary importance to the viability of southern Madison County. Farming continues to be a critical industry, covering much of the land area in the region. Commercial development and educational facilities are concentrated in the population centers in each of the towns. Therefore, land conservation should be among the region's main priorities. The changes in farming, variable population growth, increase in housing units, increasing number of residents working outside the county, and lower incomes all pose threats to the success of land conservation. The mission of the Southern Madison Heritage Trust, however, signals great hope for the future of southern Madison County, but to be successful, the SMHT needs the support of all segments of the resident population.

Once scenic vistas, natural or open land, historic or - archeological sites, or other environmentally sensitive areas are destroyed, demolished, or irrevocably changed, there is no turning back. They are gone forever. We will have lost a treasure.

“Open space” is a common, perhaps overused term, which does not fall easily into a precise definition. It is more than “undeveloped” ground.” It encompasses assets such as streams, slopes, woods, natural landscapes, and historic sites which all contribute to the broad meaning of the concept. Open space may not be “open” for use by the public at large, but the whole community benefits from its contribution to the quality of life within the community.

Most citizens, landowners, and Township officials would agree that **it** is desirable to retain these valued and irreplaceable resources. They would, we hope, attempt to maximize protection for these resources in a manner consistent with fair and equitable treatment for all who are involved. The bottom line of such an approach is a win-win situation, generating a positive benefit to all participants: landowners, residents, and the community. - The SMHT encourages all landowners to consider the following options ‘when contemplating the future of your project We, encourage you to consider a tangible commitment to the preservation of our community s natural and cultural heritage.

In addition, you may find that a particular option may produce a satisfactory or equivalent financial return for your situation when compared to conventional development alternatives.

This guide will assist you in making, decisions ‘about how and when to protect your land and show you the benefits of doing so. It is a general listing of techniques with associated legal and tax implications. For further information, please refer to the list of local and national conservation organization and advisors and Township officials in the back of this handbook. We also recommend that you consult an attorney or. tax advisor-before making a final decision on any specific option as estate ‘and other tax laws are subject to constant change by Congressional actions.

## **OUTRIGHT DONATION OF LAND**

your land to a conservation organization or the is the simplest and best way to protect your land permanently and ensure that it is properly managed. Full title and ownership to the land is given at the time of transfer. This offers the maximum potential tax advantages because you may take a charitable gift deduction based on the full fair market value of your property, you would no longer pay property taxes on the land, and any estate taxes may be eliminated. The receiving organization or the Township may require an endowment to accompany the land for proper maintenance in perpetuity (see section on Endowments for more information).

## **DONATION WITH LIFE ESTATE**

A reserved life estate allows you to donate your land to a conservation organization or the Township now, and retain use of all or part of the property during your lifetime, or the lifetime of- designated immediate family members. The value of your donation for tax purposes is based on the fair market value of the property less the estimated value of your life interest in the property according to Internal Revenue Service tables based on your age and life expectancy. The tax advantages are less than with an outright donation but greater than with a bequest through your will.

## **CONSERVATION EASEMENT**

A conservation easement is a legal agreement between a landowner qualified conservation organization or the Township that permanently limits a property's uses in order to protect its conservation values. The restrictions specified in a conservation easement are tailored to suit your particular property and situation and are written to encourage good land stewardship practices. Generally, the restrictions are placed on the property in order to retain the natural, scenic, historic, or open. space characteristics and to protect against intentional or inadvertent destruction of those features. This flexible tool allows you to both provide protection for your land in perpetuity and retain ownership of it.

A conservation easement is permanent and binds all present and future owners of the eased land. It is recorded like any other title Interest and goes with the land whether it is transferred by sale, by gift, or by bequest. Monitoring and enforcement of the restrictions are the responsibility of the conservation organization or the Township holding the easement.

Conservation easements not only offer you assurance that the property you have lived on or worked with for many years will be preserved and cared for in the future, they also may provide significant financial benefits. An easement will affect the market value of the land to the extent that it limits the use and development potential. Depending on your own financial situation, an easement may provide positive, economic benefits in terms of income, estate, gift, and/or property taxes. Often, the reduction in estate taxes makes -the difference between heirs being able to keep land in the family and their needing to sell it to pay the taxes.

## **BARGAIN SALE**

With a bargain sale, you protect your land by selling it to a conservation organization or the Township at less than fair market value. You -receive the bargain sale price for your land, and

the difference between that and the fair market appraised value is considered a donation, You may then be eligible for a charitable income tax deduction equal to the difference. Also, by selling at less than fair market value, there would be a smaller capital gain to be taxed. Depending on your financial situation, a bargain sale may be especially advantageous for you.

## **BEQUEST**

A gift of land through your will allows you to retain full use and control over your land while you are alive, and ensures its protection after you are gone. You can even leave a life estate for your family as described above. You do not receive a charitable income tax deduction For a bequest; however, your estate taxes may be reduced.

## **LIMITED DEVELOPMENT**

Limited development is an alternative to traditional development that involves the division or development of a property in a way that is both economically rewarding and ecologically sensitive. It strives to achieve a balance between maximizing the landowner's financial interest and his or her desire to preserve the natural, cultural, and scenic features of the property. A successful limited development' plan uses careful planning to ensure that the valuable natural and cultural-resources of a property, such as woodlands, agricultural lands, historic buildings, significant wetlands, and scenic views, are preserved. Typically, higher values per lot than traditional development can be attained by designing a plan with fewer houses or other buildings than are permitted under the municipality's zoning ordinance and siting them more carefully in relation to the preserved areas: Engineering, infrastructure, and' governmental approval costs are reduced, as are negative impacts on the environment. Often, the returns on the property can approach—and sometimes, even equal—the after-tax return from. traditional, higher density development, especially when the impact of gift and estate taxes can be avoided or reduced. Limited development usually includes the use of conservation easements, donation of land, and/or a bargain sale.

## **ENDOWMENTS**

An endowment' is a gift of money accompanying the donation or ale of real estate to cover the expenses of adequately maintaining the property, Many conservation organizations or townships require endowments for the management and operation expenses involved in the ownership of real estate or for monitoring conservation easements. Donations to endowments are considered charitable contributions and are eligible for tax deductions.

## **TAX CREDITS**

There are federal and state laws that allow taxpayers to get direct tax credits for donating conservation easements to a certified land trust such as SMHT. The federal program allows any landowner who donates a conservation easement to deduct the value of the easement up to 50% of their gross adjusted income. Qualifying farmers and ranchers can deduct up to 100% of their gross adjusted income. The carry-forward period for a donor to take deductions for voluntary conservation easements is now 15 years.

New York State landowners whose land is restricted by a conservation easement can now apply for an annual refund of 25% of the property taxes paid on that land, up to \$5,000 per year. It is available to all owners of easement-restricted land, regardless of when the easement was created, provided that the easement was wholly or partially donated to a land trust or a governmental agency.

This incentive removes one of the most significant barriers to easement donations in NYS - the lack of property tax relief on easement-restricted lands and enables landowners with modest incomes, such as retirees and farmers, to conserve their land without sacrificing financial security. The tax benefit runs with the land so that successor owners will benefit from it as well as the original easement donors. This not only recognizes the ongoing public benefits of private land conservation, but also helps ensure that new owners, too, will comply with their easements and protect the land for future generations.



The Southern Madison Heritage Trust is a certified land trust and can hold conservation easements in New York State. We would be happy to work with any landowner to answer questions, provide legal assistance and help with the establishment of a conservation easement on their property.



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### ***Acknowledgements***

This handbook was adapted in part from:

*Conservation Options—A Landowner’s Guide*, Land Trust Alliance, 2003

*Leaving a Legacy—A Guide to Conservation Options for Landowners*, Chadds Ford Township, PA Open Space Committee, 1999

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June, 2007