



CORVUSCENTRE
for Conservation Policy

A Conservation Easement Primer

For Local Government Personnel

Prepared by Guy Greenaway | October 2025

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October 2025

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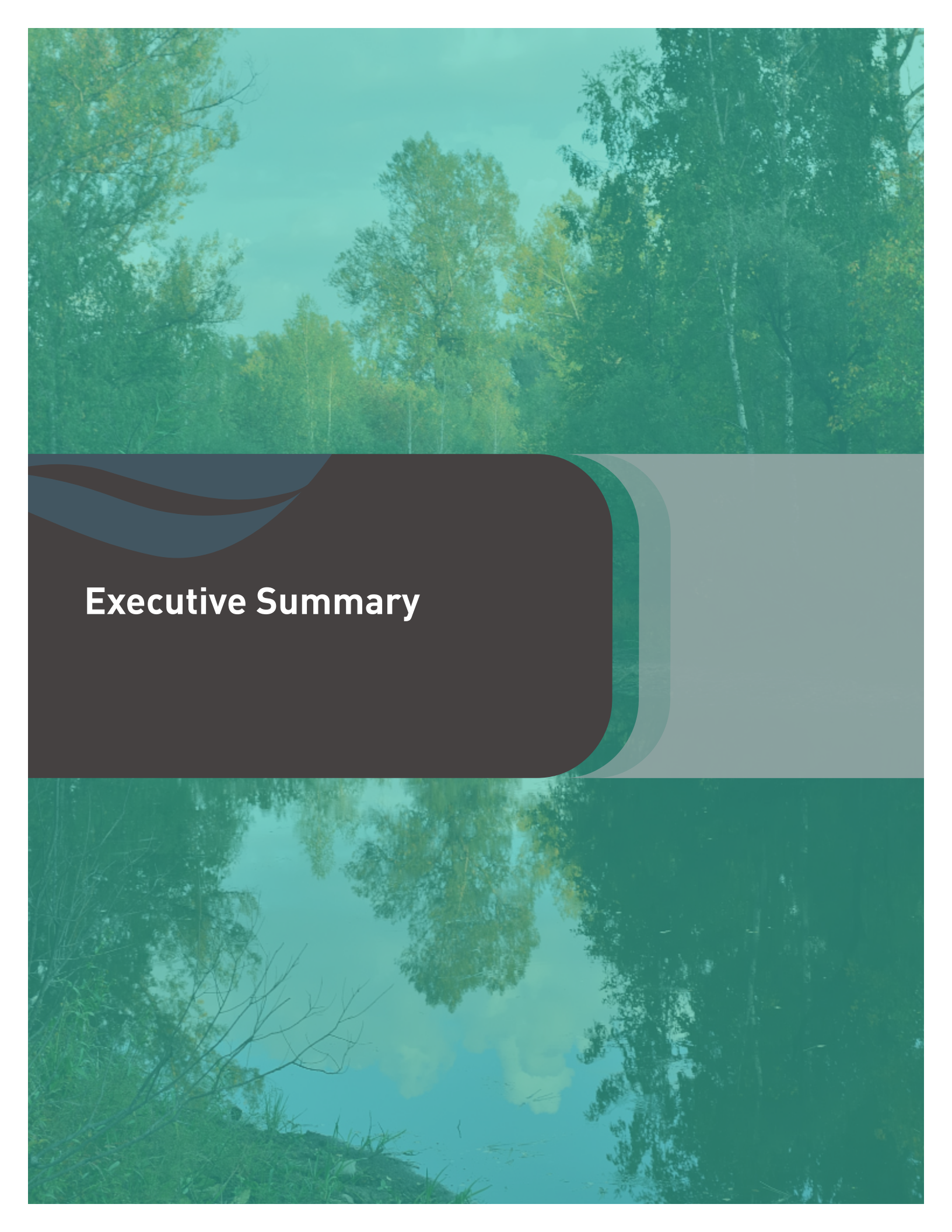
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Executive Summary

Executive Summary

Conservation easements can be somewhat mysterious for local government personnel.

Some Alberta municipalities actively support conservation easements, some hold these easements, and some see them as problematic. Despite this depth of perspectives on the tool, there has never been a resource targeted at municipalities. This Primer provides basic information about conservation easements through the lens of a local government, and is comprised of a series of common questions and answers.

A conservation easement is a private agreement between a landowner and a ‘qualified organization’, that enables the landowner to voluntarily relinquish certain land use rights and opportunities to support conservation of the environmental, agricultural, and/or scenic values of their property. The agreement is registered on the title as an interest in land held by the organization, and is binding on future landowners.

In the simplest sense, the landowner is required to abide by all of the restrictions in the conservation easement agreement. Everything required of the landowner is explicitly stated in the agreement, with a list of land use restrictions forming the backbone. These restrictions vary between organizations and properties, but there are some relatively-commonly clauses.

A conservation easement does not need to be approved by any level of government agency, does not have a legally-prescribed term, and cannot prevent oil and gas development.

Easements are generally valued financially based on the difference between two real property assessments: one assuming the easement is not in place, the other assuming it is. Compensation to the landowner for the one-time grant of a conservation easement is in the form of a charitable donation receipt, a cash payment, or a combination of the two (most often) equal to its appraised value.

Going forward, the easement holder is responsible for regular monitoring against a baseline report, and enforcing the agreement’s terms. The easement can be changed or terminated by agreement of the two parties, or by the responsible Minister, and applies to all future owners of the property.

A conservation easement must operate within a municipality’s land use rules, but like other private contracts, the municipality has no approval authority over the agreement. A municipality may provide property tax relief for parcels with conservation easements, but that is their choice. Based on Land and Property Rights Tribunal decisions, it appears a subdivision authority may require a conservation easement as a condition of approval. A local government may also hold voluntary conservation easements, and many Alberta municipalities do so. While similar to other municipal conservation tools (such as environmental reserve), conservation easements are distinct and not enabled under the Municipal Government Act.

A conservation easement must operate within a municipality’s land use rules, but like other private contracts, the municipality has no approval authority over the agreement

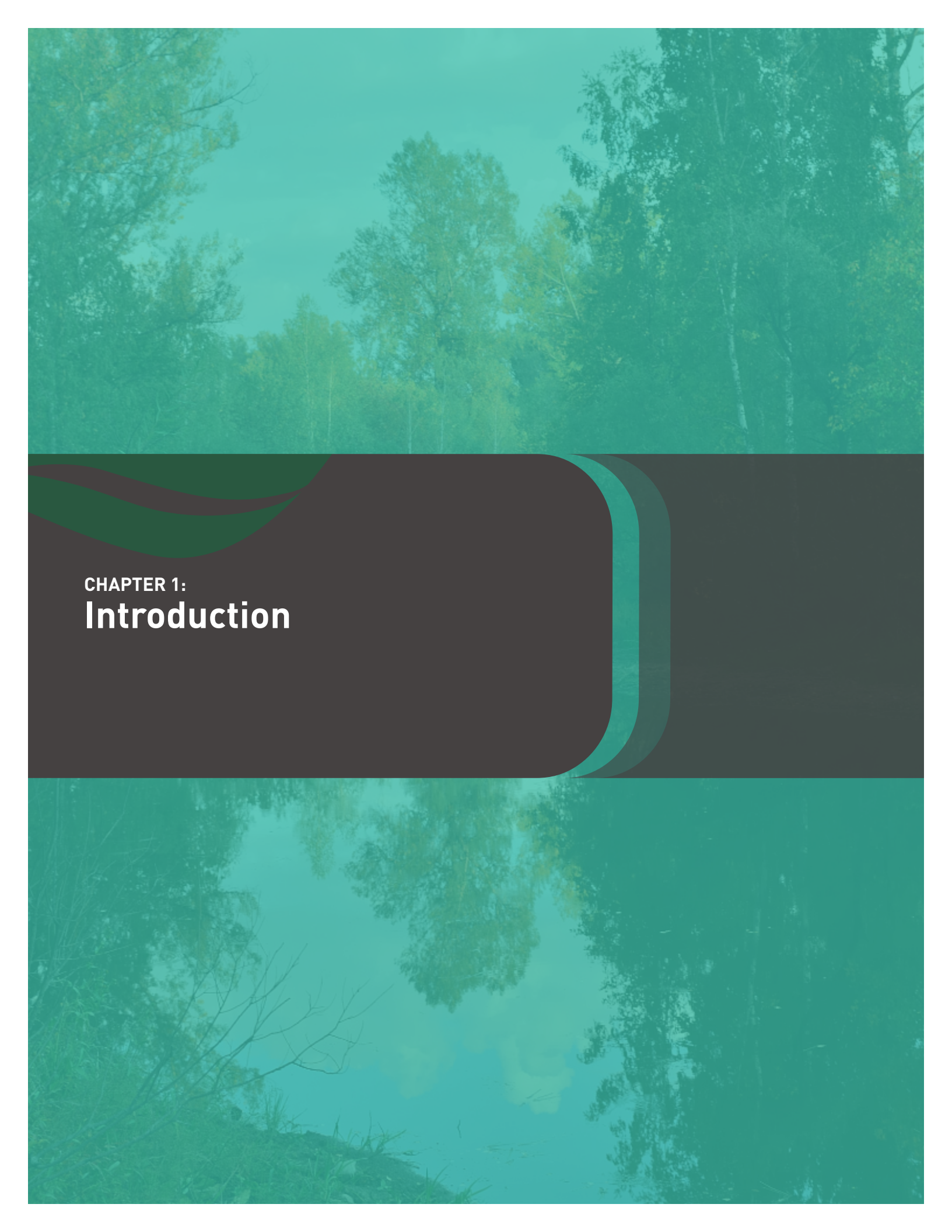
Alberta has had conservation easements since 1996, the agricultural purpose for easements since 2009, and the Alberta Land Trust Grant Program since 2011. Currently 30 ‘qualified organizations’ hold conservation easements in Alberta, of which approximately two thirds are municipalities. Conservation easements currently exist on approximately 0.87% of private land in Alberta, and 0.35% of the total land base. Conservation easements have only rarely been directly addressed legally (only eight cases across Canada; four in Alberta), but in all cases, the

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CHAPTER 1: **Introduction**

Introduction

Conservation easements can be somewhat mysterious for local government personnel.

They are private contracts between a landowner and a qualified conservation easement holder, but they are registered on title and enabled by provincial legislation. In some ways they operate like every other type of easement, but their conservation focus sets them apart.

Some Alberta municipalities actively support conservation easements and the land trusts that hold them; some dozen Alberta municipalities operate their own conservation easement program; and some municipalities see these easements as a problematic overstep into local planning.

This range of perspectives has been the norm since Alberta first saw conservation easements some 30 years ago. Yet there has never been a conservation easement resource targeted at municipalities with the goal of providing foundational information for both the advocates and detractors.

To be clear, the Corvus Centre views conservation easements as a powerful and effective tool. But there are far more parcels in Alberta where a conservation easement is NOT appropriate than those where it is. Understanding the distinction means understanding the tool.

This Primer was created with that intention: to provide basic, factual information; address myths and misunderstandings; but to do so through the lens of a local government's structure, roles, and responsibilities.

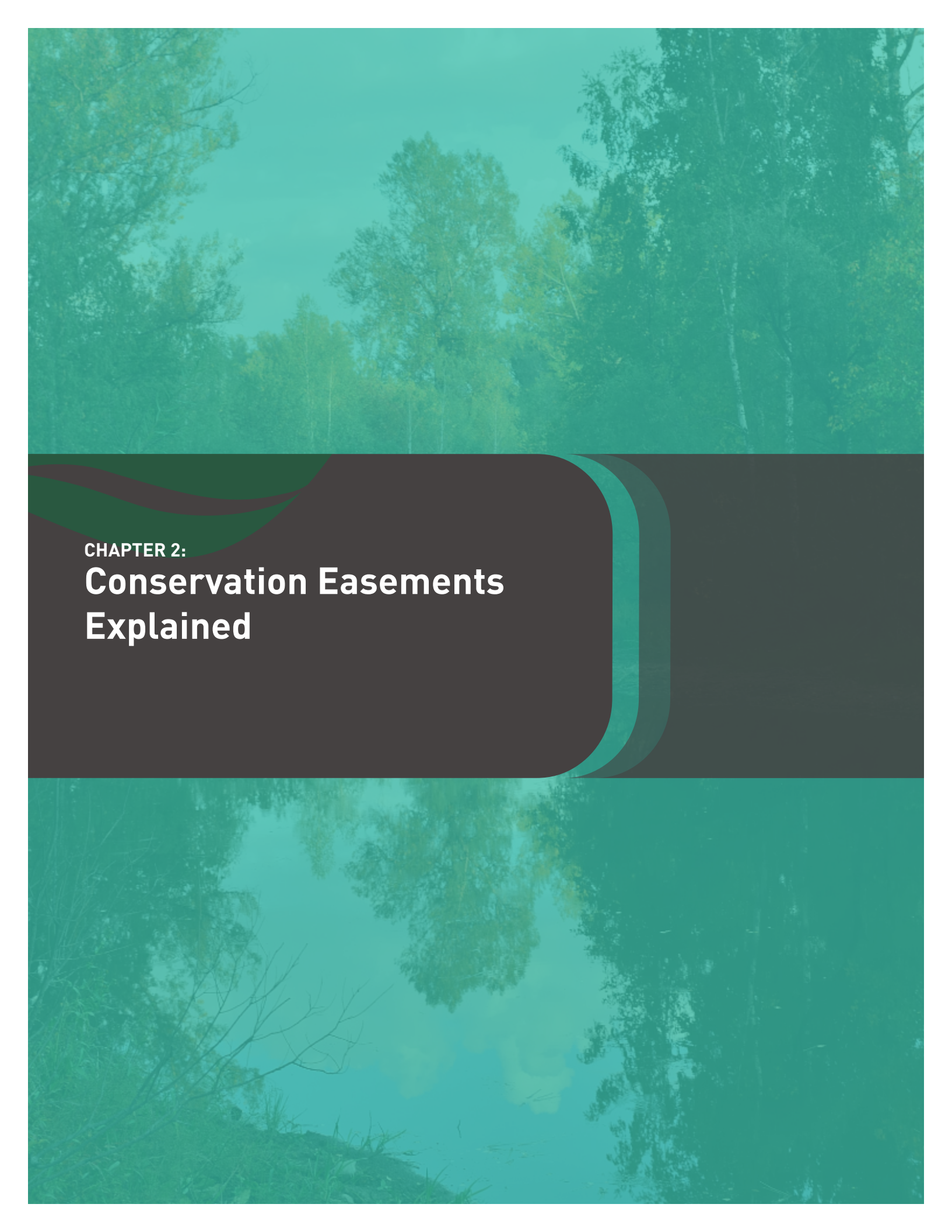
The document is organized as a series of common questions, grouped into the basic elements of a conservation easement, its relationship to municipalities, and the current use of the tool in Alberta. The reader can dig far into a given topic, or leap from questions to question based on their information needs.

Format of the Primer

Because there is little standardized information available, most of the musings about the conservation easement tool take the form of questions. For that reason this Primer is structured in a question-and-answer style. For each section, common questions are posed, simple answers provided, and then more detail for those who wish it.

In the Conservation Easements and Local Governments section, there is an additional component. While information about the relationship between municipalities and conservation easements is lacking, ironically, the experience is not. Several municipalities run conservation easement programs, actively support their local land trust, and/or rely on the conservation easement tool as a device in their Municipal Development Plan. Following each 'question' in this part of the primer, there are a few points regarding 'best practice' to help municipal personnel understand how they can better interface with the conservation easements in their community.



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CHAPTER 2:

Conservation Easements Explained

Conservation Easements Explained

The Basics

What is a conservation easement?

A conservation easement is a private agreement between a landowner and a 'qualified organization', that enables the landowner to voluntarily give up certain land use rights and opportunities to support the conservation of their property. The agreement is registered on the title as an interest in land held by the organization, and is binding on future landowners.

Like other types of easements, a conservation easement is a legal agreement allowing someone else to "use" a person's property, only in this case, the use is conservation. The 'qualified organization' acts as an intermediary on behalf of the 'public interest' ensuring that the identified conservation values of the property are maintained through restrictions in land use.

While similar in concept to restrictive covenants, conservation easements do not require there to be a 'servient' and a 'dominant' tenement, and they can both restrict activities and prescribe required activities.

While conservation easements are often said to restrict property rights, they could more accurately be said to restrict a landowner from seeking out and securing certain property rights. For example, there is no pre-existing right to subdivide a property, but landowners do have the right to apply to do so. Within the conservation easement agreement, the landowner voluntarily gives up the right to pursue that opportunity.

The conservation easement agreement has very specific restrictions, which are tied to actions that could negatively impact the identified conservation values of the property. Anything not covered by the list of restrictions remains fully available to the landowner, so they can otherwise use, reside on, and dispose of the land with no additional constraints.

While all similar to a degree, every conservation easement is different as each is structured for unique needs of the landowner, the qualified organization, and the land parcel itself. Each qualified organization has a template conservation easement agreement which is used as a starting point, but then negotiated and

adapted to fit the specific circumstance.

Landowners can be compensated for the grant of a conservation easement (see How are landowners compensated for a conservation easement?). Unlike agri-environmental subsidy programs, compensation for a conservation easement is based on payment for a one-time disposition

What can a conservation easement conserve?

The legislation for conservation easements enables agreements only for environmental, agricultural, and/or aesthetic conservation purposes.

The Alberta Land Stewardship Act defines the allowable purposes of conservation easements quite broadly, requiring them to be for "the protection, conservation and enhancement of:"

- the environment;
- natural scenic or esthetic values; and/or
- agricultural land or land for agricultural purposes.

As long as it is consistent with those purposes, the legislation also allows for:

recreational use;

open space use;

- environmental education use; and/or
- use for research and scientific studies of natural ecosystems.

The vast majority of Alberta's conservation easements were established to protect 'the environment'. The author knows of none that were established for aesthetic purposes. Only recently have conservation easements strictly for agricultural land emerged, still constituting less than 1% of Alberta conservation easements). However, most are, in fact, a mix of environment and agriculture, with the environmental purpose being paramount, but the agreement drafted to ensure agricultural operations can continue with limited impact. An unpublished survey of Alberta's land trusts conducted by the Corvus Centre determined that over 90% of conservation easements are on parcels with active agricultural operations.

The detailed description of what is being conserved by a conservation easement is provided by the articulation in the agreement of the property's 'conservation values,' as well as the 'baseline documentation report' prepared at the outset.

Does a conservation easement have to be on an entire parcel?

A landowner can grant a conservation easement on all or just a portion of their property.

The Alberta Land Stewardship Act specifically allows for a landowner to grant a conservation easement on "all or part of the land." This becomes part of the negotiation as different landowners and different qualified organizations will approach this in dissimilar ways, eventually settling on which portions and how much of a parcel will be subject to the agreement.

Placement of a conservation easement does not need to follow natural or approved subdivisions; instead boundaries are guided by the conservation values, which may or may not include a whole parcel. The agreement will lay out the 'conservation easement area' on a given parcel, either by map, survey, detailed description, or legal land description. Different parts of the conservation easement area may even have different restrictions and prescriptions applied to them.

Many conservation easement grantors across the continent use this dynamic as part of their financial, estate, and/or succession planning. In these cases, they identify a time line over several years, and grant conservation easements on different parcels and portions of parcels over time to support their financial goals.

Who is eligible to hold a conservation easement?

Under the enabling legislation (the Alberta Land Stewardship Act), only a 'qualified organization' can hold a conservation easement. This includes land conservation NGOs (land trusts), provincial government agencies, and a variety of local government bodies, including municipalities.

The Alberta Land Stewardship Act explicitly enables the conservation easement tool, and lays out the entities eligible to receive the 'grant' of a conservation easement. This includes:

- the Provincial government or one of its agencies,
- a local government body (including municipalities), or
- a registered charity that "has as one of its objects the acquisition and holding of interests in land for purposes that are substantially the same as any of the purposes for which a conservation easement may be granted" (i.e., a land trust).

Currently, the vast majority of conservation easements in Alberta are held by land trusts, although the number of municipalities holding conservation easements is growing. See [Appendix 1: Holders of Conservation Easements in Alberta](#) for a complete list).

What is a land trust?

A land trust is a charitable, non-government organization (NGO) established to secure private land or interests in private land for the purpose of maintaining the long-term conservation values of those parcels for future generations.

'Land trust' is the generic name for a variety of land conservation groups. The common thread is that one of their primary jobs is to secure land for conservation either through fee-simple purchase or acquisition of conservation easements. Beyond that several key differences exist. (There is often confusion between land trusts (the organizations) and conservation easements (the tool)).

Not all land trusts have 'land trust' in their name. Many are called 'conservancies', and many have neither in their name. Most focus on ecological conservation, but many focus on nature recreation or (especially in the United States) agricultural land conservation. Many land trusts undertake work beyond land securement, including other types of conservation activities, providing nature-based recreation services, selling native seeds, offering consulting services, etc.

Land trusts can and do operate at a variety of scales. They may be local (e.g., focused on a single property), regional (focused on a particular geographic region), provincial, or national.

[NB: There is a distinct and different 'community land trust' which focuses on affordable housing; there few to no links between conservation land trusts and community land trusts]

Are there standards for conservation easements?

There are no industry-wide, required standards for conservation easements. However, the Canadian Land Trust Standards and Practices does include guidelines for 'conservation agreements.' Most land trusts ascribe to the Standards and Practices.

In 2007, the *Canadian Land Trust Alliance* created the [Canadian Land Trust Standards and Practices](#), and then updated them again in 2019. The resource sought to gather 'best practice' for private land conservation in a way that could support land trusts across the country. When the Canadian Land Trust Alliance closed its doors, the Centre for Land Conservation inherited the Standards and Practices, and is now their steward.

The Standards and Practices were drafted around the concept of a fee-simple land conservation purchase, and the organizations that undertook those transactions. The authors were only tangentially aware of conservation easements, and used the generic 'conservation agreement' language, mixing all types of non-purchase conservation together. The Standards and Practices are solid for organizational management issues and fee-simple purchase, but provide only limited, ill-fitting guidance specific to conservation easements. Future iterations may contain improvements.

Even then, as noted above land trusts are not the only 'qualified organizations' capable of holding conservation easements. Notably, numerous conservation easements are now held by municipalities, none of whom – unsurprisingly – subscribe to the Canadian Land Trust Standards and Practices.



The Agreement

Is the process for granting a conservation easement always the same?

At a high level, yes, the steps followed in granting a conservation easement are relatively standardized.

However, actual execution comes down to the details, which will vary from agreement to agreement, organization to organization, landowner to landowner, parcel to parcel. See [Appendix 2: Generic steps in granting a conservation easement](#), for a simple breakdown of the steps in granting a conservation easement.

What does a conservation easement require of the landowner?

In the simplest sense, the landowner is required to abide by all of the restrictions in the conservation easement agreement, as well as any requirements. They are also required to allow the conservation easement holder onto the property for monitoring, and to notify the easement holder if they notice any infractions of the agreement.

The list of restrictions in a conservation easement agreement vary from one qualified organization to another, and from one property to another. The two most common restrictions are against seeking to subdivide, and limitations on future buildings. In many cases, there is also a management plan or management requirements, which may relate to such things as grazing, woodlot management, invasive species, riparian management, vegetation management, fencing, or other activities that could negatively impact the conservation values.

The landowner is also required to allow the conservation easement holder onto the property to address infractions of the agreement, and (with notice) for the purpose of regular monitoring of the easement. Similarly, landowners are usually required to notify the conservation easement holder if they notice any infractions of the easement, or if they are approached by someone wanting to exercise their subsurface rights.

What does a conservation easement not require of the landowner?

Everything required of the landowner is explicitly stated in the conservation easement agreement. This means the landowner retains all rights and opportunities not spoken to in the agreement.

A conservation easement holder has a very specific and explicit interest in a landowner's property. As result, any land use activity, right, or opportunity not spoken to in the agreement rests with the landowner.

A common question arises around public access, and whether this required. The conservation easement legislation is silent on public access, and most Alberta land trusts are equally silent on the topic. This means that the landowner retains the same rights and opportunities to allow or disallow access on their private property for activities such as hunting, fishing, and hiking. The only caveat is that all people entering onto and using the property are bound by the same restrictions as the landowner.

The landowner is free to dispose of the property (sell, gift, Will, etc.) as they choose, and do not require the permission of the conservation easement holder to do so.

Landowners have no restrictions against working their land and generating revenue from it, so long as that work does not violate the terms of the easement. The conservation easement holder has no claim to those revenues.

What does a conservation easement restrict?

The list of restrictions (and requirements) forms the backbone of the conservation easement agreement. These vary between organizations and properties, but there are some relatively-commonly clauses.

It is important to remember that conservation easements restrict specified land use activities in favour of the stated 'conservation values', meaning each restriction is tied to certain ecological needs, and therefore somewhat different for each property.

As noted above, every conservation easement is different, based on the template of the qualified organization, the goals of the landowner, and the nature of the parcel

Conservation easements restrict specified land use activities in favour of the stated conservation values. In general, these restrictions might relate to subdivision, future buildings, water drainage/diversion, pollution discharges, waste and chemical storage, wildlife disturbance, and surface disturbance.

(For a generalized sense of what the actual restrictions might be, see [Appendix 3: Common restrictions in a conservation easement](#). And heed the disclaimer there!)

Unlike restrictive covenants, conservation easements can be both negative (restriction on something) and positive (requirement to do something). ‘Restrictions’ can be prohibitions on certain activities, or they can just be limitations. The ‘requirements’ are generally framed as ‘management principles’ or contained in an associate management plan.

In Alberta in particular, it is important to note that in general, a conservation easement does NOT restrict oil and gas activity (see, [Can a conservation easement prevent oil and gas development?](#), for more details).

Are conservation easements voluntary?

Conservation easements are voluntary. They are private agreements between two parties, who each enter the negotiation voluntarily. However, when a landowner chooses to seek approval for subdivision of their property, a municipality can require a variety of preconditions, including the grant of a conservation easement.

The enabling legislation for conservation easements (the Alberta Land Stewardship Act) contains no provisions for easements to be a regulatory requirement. It simply authorizes this unique type of contractual agreement:

29(1) *A registered owner of land may, by agreement, grant to a qualified organization a conservation easement ...*

The conservation easement is private agreement between two parties, each of whom comes to the negotiation willingly. There is no regulatory imperative for them to do so. Rather, the regulatory framework enables and defines an opportunity. In the same way a landowner has the right to apply for development on their property (that changes the land use in perpetuity), conservation easement legislation gives them the right to apply for conservation on their property in perpetuity.

This is the approach taken by the land conservation charities (land trusts) in Alberta, as they are NGO’s with no authority to require any sort of non-voluntary compliance.

However, confusion around this can arise when the municipality is the ‘qualified organization’ holding the conservation easement and the regulatory body. The Municipal Government Act gives the subdivision authority broad powers to impose conditions on a subdivision approval to ensure the Municipal Development Plan, Area Structure Plan, and Land Use Bylaw are complied with (s.655(1)(a)). Several municipalities have interpreted this to include the ability to require conservation easements as a condition of subdivision, and the Land and Property Rights Tribunal has concurred¹. While technically, this is still voluntary (no one is required to apply for subdivision), it has given the appearance to some that conservation easements in this instance are ‘non-voluntary.’

It is important to note that several municipalities maintain ‘voluntary’ conservation easement programs, where they work with landowners who approach them wanting to grant a conservation easement. In these cases, the landowner wants to conserve their property through a conservation easement, but wants to do so with their local government. The municipality’s conservation easement program is then structured around these voluntary requests.



¹ Szybunka v Lac Ste. Anne County (Subdivision Authority), 2023 ABLPRT 246

The Laws and Regulations

What is the legal process for registering a conservation easement?

A conservation easement comes into effect when the Registrar of Land Titles² receives the easement and endorses a memorandum of it on the certificate of title. The Alberta Land Stewardship Act and its associated regulations prescribe the notifications required in advance of registration.

A conservation easement is an interest in land, and is registered at the Land Titles office after it is signed by the two parties. The registration and notification procedures are laid out in the [Alberta Land Stewardship Act](#) and the [Conservation Easement Registration Regulation](#) (AR 129/2010).

They require that the registration must include a boundary description satisfactory to the Registrar, and a statutory declaration attesting that the grantee is a qualified organization, the agreement fits the legislated purposes, and the required notifications have been given.

Notification must be given prior to registration to the Ministers of Infrastructure and of Transportation and Economic Corridors, as well as to the appropriate local government representative, meaning:

- The Minister responsible for the Municipal Government Act, if located in an improvement district;
- The Special Areas Board, if located in a special area;
- The council of a Metis settlement, if appropriate; or
- The council of the municipality, if appropriate.

Notification must be given 60 days prior to registration unless the person entitled to it waives that with written consent.

Does the conservation easement need to be approved by any government agency?

A conservation easement does not need to be approved by any government agency.

² In the case of a conservation easement being granted on a parcel within a Metis settlement, this would be the Registrar of the Metis Settlements Land Registry.

Like most private contract types that are enabled by legislation, conservation easement agreements do not need to be approved by any government agency. The Alberta Land Stewardship Act lays out what a conservation easement may or may not be about, but after that, there is no requirement for each agreement to be approved.

The closest thing to 'approval' is the registration at the Land Titles office. The conservation easement does not come into effect until registered by the Registrar of the applicable Land Titles office. However, this is not an approval, but an administrative step – if all the required pieces are there, the Registrar is directed by the legislation to register it.

There are also notifications required (see, [What is the legal process for registering a conservation easement?](#)), which should not be confused with 'approval'. The notification need only include: the details of the qualified organization and the landowner; legal description of the land; the number of acres in the conservation easement; and the purpose and a summary of the terms of the agreement. Anything requested beyond that can be refused by the person registering the conservation easement.

There is one voluntary scenario in which 'approval' from a government agency could be required – the federal Ecological Gifts Program or EcoGifts. If a conservation easement is being donated in whole or in part, and the grantor will be receiving a charitable tax receipt, the grantor and grantee may agree to submit the donation for certification as a Gift of Ecologically Sensitive Property. In this case, the designated federal agency will need to approve the certification. See, [Appendix 4: Conservation Easements and the Federal EcoGifts Program](#), for more details.

Can a conservation easement prevent oil and gas development?

In general, a conservation easement cannot restrict oil and gas development. In the vast majority of cases, a 'landowner' only owns the surface rights, not the subsurface or minerals rights. A person cannot enter into a contract (i.e., a conservation easement agreement) to grant limits on rights they do not hold.

Most landowners in Alberta own only the 'surface rights' associated with their property. The 'subsurface' or 'mineral' rights are generally owned by the Government of Alberta, and leased for exploitation.

With that ownership or lease comes the right to develop those mineral rights.

A landowner (i.e., holder of the surface rights) does have the ability to refuse seismic and exploration activity, unless subject to a legal directive to do so. The landowner also has the right to require certain practices of anyone gaining that surface access through an agreement and/or legal order. For this reason, conservation easement agreements often speak to what must be included in those agreements, but the conservation easement itself provides no expansion of the landowner's rights with regard to oil and gas development.

Can conservation easements be temporary?

The Alberta Land Stewardship Act does not prescribe any minimum nor maximum term requirement for a conservation easement. All conservation easements in Alberta currently were negotiated in perpetuity (without end). Whether a conservation easement agreement will be temporary will depend on whether the qualified organization is interested in accepting a temporary conservation easements.

All conservation easements are established for a 'term' or lifespan of the agreement. Since the tool was first conceived of in 1959³, it has always been assumed that the agreements would be perpetual – meaning no pre-determined end to them. Thus, all conservation easements in Alberta to date have been “in perpetuity.” This does not mean that conservation easements cannot be temporary. To be so, the easement agreement simply needs to list the term as the specified number of years.

Temporary conservation easements have not been used thus far for three primary reasons.

The first is the overriding intent of a conservation easement. In the case of ecologically-focused conservation easements, the goal is to maintain clean water, clean air, wildlife habitat, the function of natural systems, etc. In this sense, 'temporary conservation' is similar to 'somewhat dead' – deferring the loss of these natural systems does not equate to them being conserved.

The second reason has to do with the qualified

3 Whyte, William H. (1959). Securing Open Space for Urban America: Conservation Easements. Technical Bulletin 36, Urban Land Institute. Washington, DC.

organizations willing to accept grants of conservation easements. For most, the point above factors significantly, but there is also significant operational considerations. Negotiating a temporary easement is just as time-consuming and costly as negotiating a permanent one, so the knowledge that this would all have to be repeated – if the property were still available for conservation in the future – is a significant deterrent.

Finally, the third reason relates to the compensation available to a landowner donating a conservation easement (see, [How are landowners compensated for a conservation easement?](#), for more detail). The charitable tax receipt often accounts for ~80% of the compensation most land trusts can provide, and is available because the donation is classed as a 'gift'. There is no viable mechanism for valuing a 'temporary gift', so no ability to provide a charitable tax receipt.

What is the role of the provincial and federal governments?

The provincial and federal governments are not parties to a conservation easement agreement. While the roles they do play are important, they are ultimately only tangential to the agreement between the landowner and the qualified organization.

As a private contract, generally between a non-government organization and a private landowner, it is unsurprising that conservation easement agreements contain no formal role for either the provincial or federal governments. However, there are important if tangential roles they play, usually related to supporting the conservation easement process.

The provincial government can or does have the following roles:

- **Enabling legislation** – The conservation easement tool is enabled by legislation under the Alberta Land Stewardship Act.
- **Funding** – Since 2011, the Government of Alberta has maintained the Alberta Land Trust Grant Program, providing funding to land trusts for partial payment for conservation easements;
- **Notification** – There are three ministries (Municipal Affairs, Infrastructure, and Transportation and Economic Corridors), that must be given 60-days' prior notice of the intention to register a conservation easement;

- **Land titles** – The provincial Registrar of the Land Titles office adds the conservation easement to the title of the property;
- **Conservation easement holder** – The Government of Alberta can and does hold a small number of conservation easements;
- **Ministerial authority** – the Alberta Land Stewardship Act gives the Minister the power to terminate or change a conservation easement if doing so is in the public interest⁴

⁴ This confers powers similar to the existing expropriation powers, so offers no substantive increase in authority; this power has never been used in the nearly-30-years of conservation easement use in Alberta.

The federal government can or does have the following roles:

- **Charitable tax receipting** – A significant portion of the compensation for the grant of a conservation easement comes from the charitable tax receipting power that charities and governments have under the federal Income Tax Act;
- **Funding** – Since 2018, the Government of Canada has maintained the Natural Heritage Conservation Program, which provides funding to land trusts for partial payment for conservation easements;
- **EcoGifts** – The donation of a conservation easement may qualify as a Gift of Ecologically sensitive Property, making the transaction eligible for enhancements of the charitable tax receipt, as well as appraisal guarantees (see, [Appendix 4: Conservation Easements and the Federal EcoGifts Program](#), for more detail)



The Finances

How are conservation easements valued?

Conservation easements are generally valued using assessments from a qualified appraiser of the property before the easement is granted and after. The difference between these two assessments is deemed to be the financial value of the conservation easement itself.

People are often surprised to find that the conservation value of a property (e.g., the ecological value) has no impact on the financial value of a conservation easement. The financial value of a conservation easement is based entirely on standard property-value calculations.

The financial valuation of a conservation easement uses the same principles and standards as other real estate appraisals. A certified, third-party appraiser is hired to

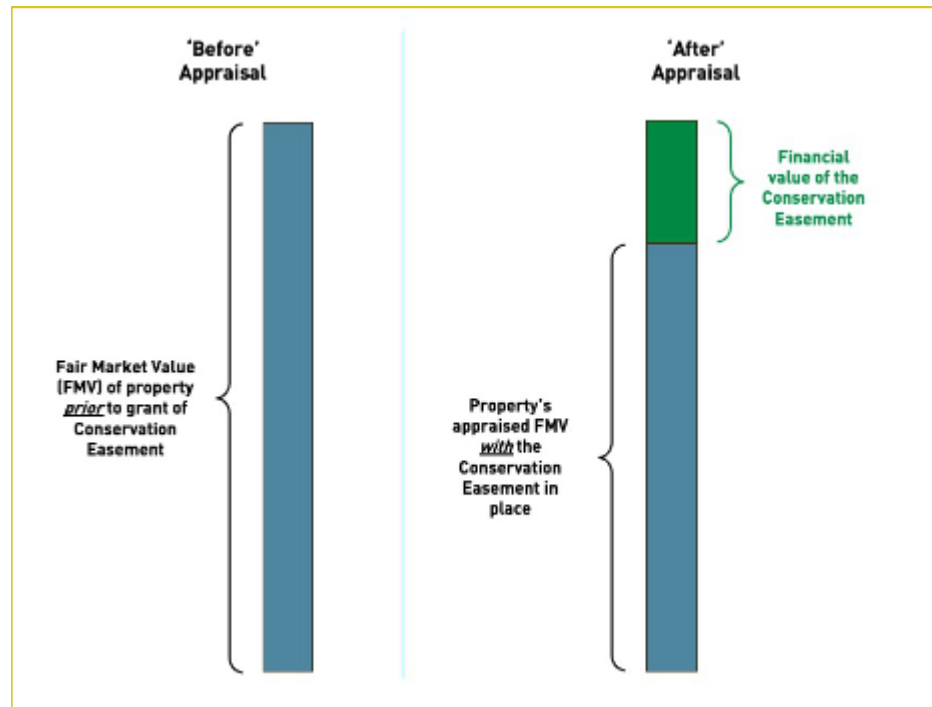


Figure 1: The before-and-after conservation easement valuation method

do a “before-and-after” appraisal. This involves two complete appraisals – one that assumes the conservation easement is in place, and one that assumes it is not. Comparable properties and real estate transactions are used to develop the values. In both cases, the ‘highest and best use’ concept is used

to determine probable value, and the conservation value is largely ignored.

The difference between the value of the property with the conservation easement and the value without it is deemed to be the value of the conservation easement (see *Figure 1: The before-and-after conservation easement valuation method*).

It is important to note that this means relative development pressure may have a big impact on the value of a conservation easement. For example, a property in an area that sees significant pressure to subdivide and develop properties will see a large

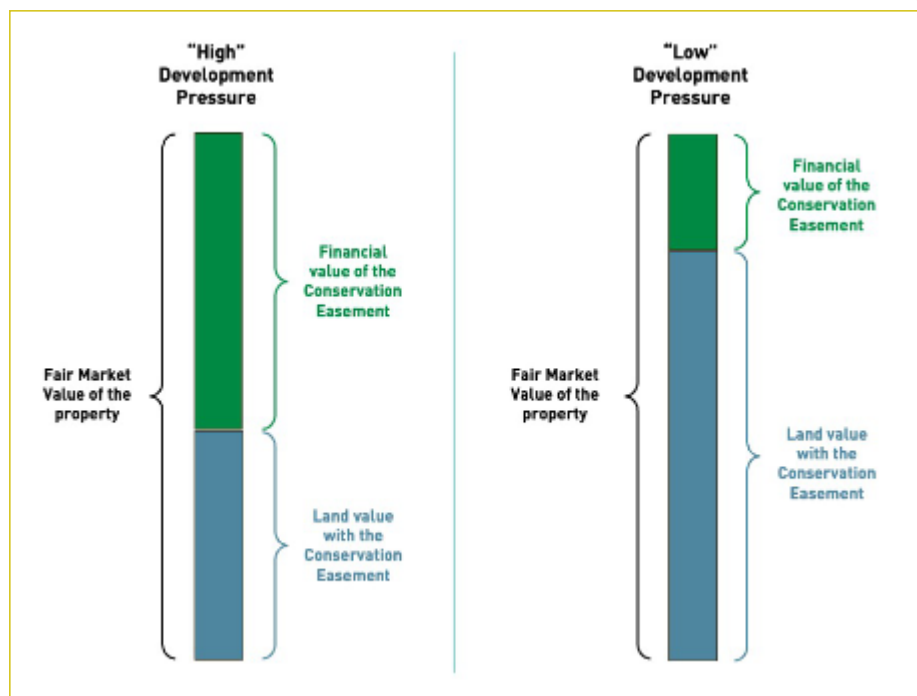


Figure 2: Development pressure and conservation easement value

difference in the “before and after” calculation (once subdivision and building is limited). However, an ecologically similar property in an area with no development pressure will likely see very little difference (see *Figure 2: Development pressure and conservation easement value*).

Some qualified organizations use a different approach, though still based on market value. They will set a specific limit for the financial value of the easement (e.g., 20% of the appraised value), and offer the landowner that standardized amount, thus avoiding the need to undertake expensive appraisals.

If a qualified organization and a landowner who is donating a conservation easement decide to have the gift certified as a Gift of Ecologically Sensitive Property, there are additional requirements and protections with regard to the appraisal (see, [Appendix 4: Conservation Easements and the Federal EcoGifts Program](#), for more details).

How are landowners compensated for a conservation easement?

Landowners are eligible to be compensated for 100% of the value of a conservation easement. That compensation may come in the form of a charitable tax receipt, a cash payment, a combination of the two, or a subdivision approval. Like any other instance where a portion of property is traded for a payment, there is a one-time payment, based on the market value of the conservation easement.

One of the most misunderstood dynamics around conservation easements is how landowners are compensated for the grant of a conservation easement. This is largely due to the perception that this involves a payment for services or agricultural subsidy; it does not.

There are four mechanisms by which a landowner may be compensated for the grant of a conservation easement:

- **Charitable tax receipt** – A landowner donating a conservation easement to a qualified organization can receive a charitable tax receipt for the full value of the conservation easement (note that certification as a EcoGift is *NOT* required to receive this tax receipt, but it does enhance the tax receipt (see, [Appendix 4: Conservation Easements and the Federal EcoGifts Program](#), for more details);
- **Cash payment** – A landowner can receive a cash payment for the full financial value of the conservation easement, though in practice this rarely if ever occurs.
- **Split receipt** – Qualified organizations can compensate landowners with a mix of tax receipt and cash payment equal to the full financial value of the conservation easement. This is the most common approach, with the cash payment usually making up ~20% of the value.
- **Subdivision Approval** – In certain municipalities and circumstances, a landowner/developer may be able to grant a conservation easement in exchange for a subdivision approval. In this case no charitable tax receipt is available for any portion of the value of the conservation easement as it has not been ‘gifted’ and would not meet Canadian Revenue Agency requirements.

Confusion around compensation for conservation easements arises from familiarity with ‘normal’ agri-environmental programs. In these cases, environmental incentive programs make a payment to a landowner in exchange for committing to adopt certain practices over a set time period. However, a conservation easement is fundamentally different.

Granting a conservation easement is like a sale of land: the landowner is taking a portion of their land, having it financially valued, then trading it to another party in exchange for full-market compensation. The twist is that the 'portion' of the land is a layer, not a slice (see *Figure 3: Land as a cake; conservation easements as a layer*).

Land can be considered like a cake. Slicing a 40-acre piece from a 160-acre whole, and then selling it – once – makes sense. A conservation easement, is similar, but involves selling a layer (a little bit of every slice). Like the slice, this layer has a market value and is disposed of – once – for that amount. For that reason, there is no 'on-going payments.'

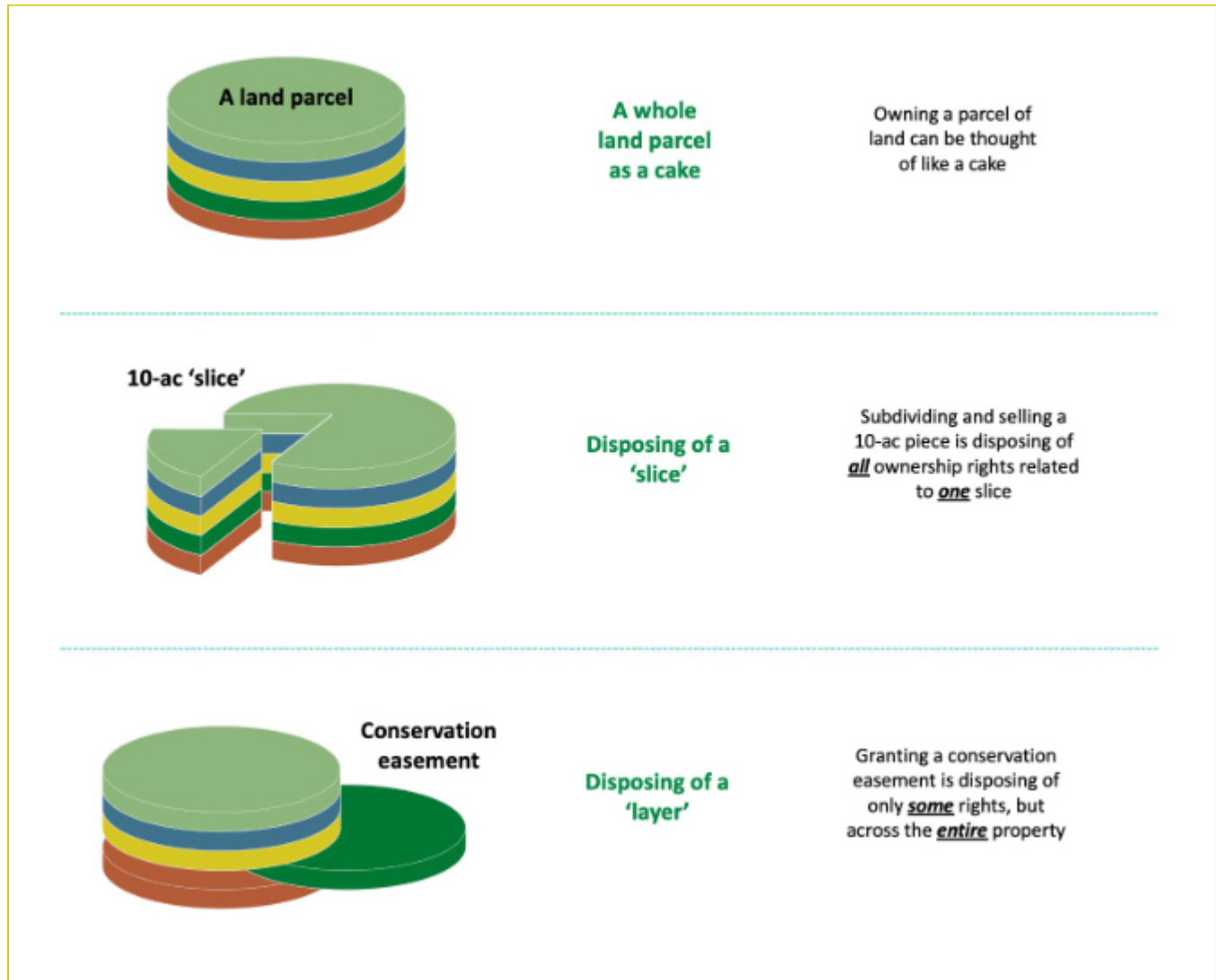


Figure 3: Land as a cake; conservation easements as a layer

The Future

How are conservation easements monitored and stewarded?

On-going stewardship and monitoring of the conservation easement agreement is undertaken by the conservation easement holder. Regular monitoring takes place, and is conducted relative to the original Baseline Documentation Report.

The holder of a conservation easement will regularly monitor the area of a parcel subject to a conservation easement. This may be every one or two years, usually via an in-person visit. Stewardship of the land is still in the hands of the landowner; stewardship of the agreement is overseen by the conservation easement holder. Using the original Baseline Documentation Report, the easement holder will assess any changes in the land, changes in circumstances affecting the land, and potential infractions.

The conservation easement agreement will give the conservation easement holder the right to come onto the property for the purpose of monitoring, and will usually identify the method and timeline of notification for such.

When establishing a conservation easement project, most land trusts will create or add to a stewardship endowment. This represents a one-time payment for perpetual conservation easement stewardship.

How are conservation easements enforced?

The conservation easement legislation – and agreement – give the conservation easement holder the right to enforce the terms of the agreement. Enforcement powers are essentially the same as those associated with any private, legal contract.

The Alberta Land Stewardship Act (s.30) gives the qualified organization receiving a conservation easement the authority to enforce it. This section also allows the conservation easement agreement to designate another qualified organization as the enforcement authority. The legislation also dictates that a conservation easement does not lapse due to lack of enforcement.

The conservation easement agreement will usually list the escalating enforcement actions available to the conservation easement holder, including the right to secure stop-work orders, and to require remedial

actions. The majority of conservation easement infractions are the result of lack of awareness of the restrictions by the landowner or others, and are generally easily remedied.

Just like any private contract, each conservation easement agreement lists the remedies available to the parties to resolve disputes. These generally include an escalating range from bargaining in good faith to resorting to the courts.

Can a conservation easement be changed?

Yes, a conservation easement can be changed by mutual agreement of the landowner and the conservation easement holder, so long as the intent of the agreement is intact. The provincial Minister also has the power to change the conservation easement if it is in the public interest to do so.

Conservation easements were designed to be perpetual, which means the land, the landowner, and the circumstances surrounding the land will change – sometimes dramatically – over the life of the agreement. For this reason, conservation easements are designed to be flexible, adapting to those changes. If the holder of the conservation easement and the current landowner agree, changes can be made to the agreement.

That said, the conservation easement must still be a conservation easement. The conservation values laid out in the agreement and catalogued by the Baseline Documentation Report, and the purpose of the conservation easement cannot be impaired by those changes (i.e., “agreeing” to convert a ranch to a residential subdivision would violate the spirit and intent of the agreement under the legislation).

The one caveat to this is whether the donation of a conservation easement was certified as a Gift of Ecologically Property. In that case, changes are very difficult and subject to federal approval (see, [Appendix 4: Conservation Easements and the Federal EcoGifts Program](#), for more details).

Can a conservation easement be removed?

Yes, a conservation easement can be terminated by mutual agreement of the landowner and the conservation easement holder, or by the provincial Minister if it is in the public interest to do so.

A conservation easement is very difficult – by intention – to remove, and doing so is extremely rare. As with changes, this can be done by mutual agreement of the landowner and the conservation easement holder. There is no ability for a third-party or for a regulatory agency – outside of existing expropriation powers – to remove a conservation easement from the title of the property. The Minister responsible for the Alberta Land Stewardship Act does have the ability to terminate a conservation easement if it is in the public interest to do so (again, mirroring existing expropriation powers).

As conservation organizations working with landowners to achieve their conservation goals, land trusts are very unlikely to agree to a termination even if the landowner wishes to. If a portion of the compensation was through a charitable tax receipt, the Canadian Revenue Agency would have questions. If extraordinary circumstances did lead to a termination, the land trust would require significant compensation to account for their time and investment.

If the conservation easement was a donation certified as a Gift of Ecologically Property, disposal of the easement would be subject to federal approval, which would be unlikely (see, [Appendix 4: Conservation Easements and the Federal EcoGifts Program](#), for more details).

Terminating a conservation easement that was originally required as a condition of subdivision approval would be fraught. The case for ‘requiring’ a conservation easement in the first place would have been based on serving the conservation goals of the municipality. It is unclear how a municipality would make the case that that original requirement was valid if the conservation easement is subsequently terminated.

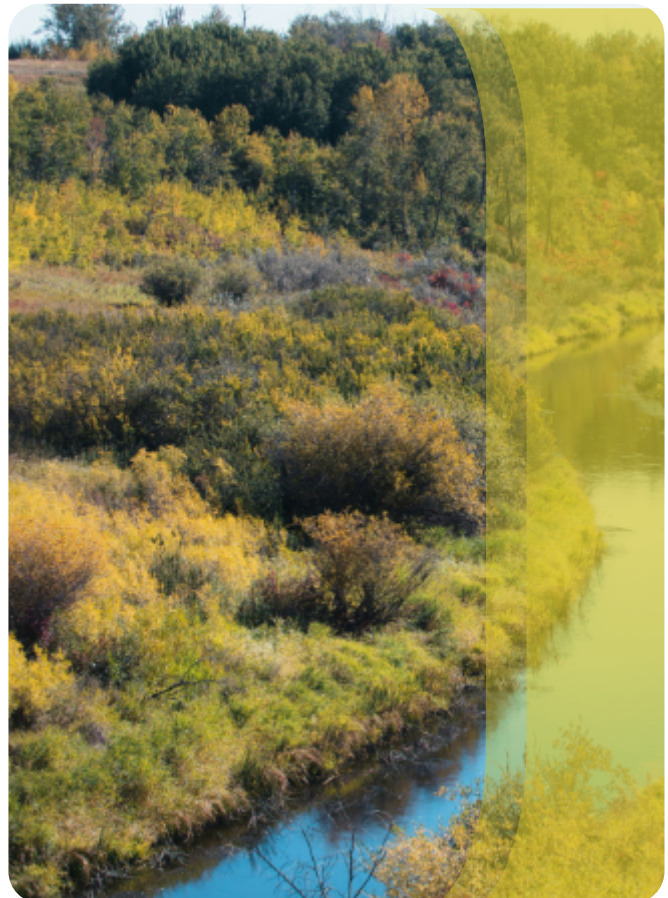
What happens when a property with a conservation easement is sold?

The sale of a property with a conservation easement effects no changes in the conservation easement agreement. As it is registered on title, the agreement binds future landowners. A current landowner faces no restriction on their ability to sell their property.

A conservation easement agreement assumes the land will change hands several times over the life of the agreement. There are no restrictions on the ability of the landowner to sell, gift, Will, or otherwise dispose of the property.

Because the agreement is registered on title, all elements of it will be binding on future landowners. The agreement may have a clause that requires the current landowner to notify the conservation easement holder of any pending sale or disposition, in order to facilitate communication.

In terms of selling price, the conservation easement’s impact on the land value has already happened. Any devaluation caused by the original grant of the conservation easement was compensated for by the original financial transaction. The selling price at the time of sale will be determined in the same way it would for any parcel – a qualified appraiser estimates the value, and the open market (willing buyer and willing seller) determines the price it will trade for at any given moment.



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CHAPTER 2:

Conservation Easements and Local Governments

Conservation Easements and Local Governments

Do conservation easements override municipal planning?

No. The list of restrictions associated with a conservation easement operates within the land use planning, subdivision, and permitting requirements set out by the municipality, but does not override them.

In essence, municipal zoning (districting) limits the types of land use activities that can occur on a given parcel, and a conservation easement – when granted – limits which of those a landowner can apply for.

Planning, Subdivision, and Development

Districting (Zoning)

It is important to remember that zoning or districting dictates what can happen on a property, not what must happen. For example, when an undeveloped parcel is zoned for intensive development, it does not mean the landowner must develop; it means that if they choose to develop, they must do so from a specific set of options (i.e., the list of permitted and discretionary uses for that district). However, these are not guaranteed these opportunities, and the landowner must apply to secure any one of them.

A conservation easement is an agreement between the landowner and the easement holder that the landowner will not apply to secure certain land use opportunities that might otherwise be available to them (e.g., subdivision, future buildings).

The conservation easement cannot create nor guarantee any land use opportunities; only the municipality has that power. For example, if a conservation easement restricts subdivision and development on the majority of a property, but excludes two envelopes for future houses, that does not guarantee those houses will exist. The land use district must allow two houses to be built on that property, and the existing development permitting process must be followed.

Subdivision

The subdivision process is directly affected by a conservation easement, as most conservation easements restrict a landowner from pursuing further

subdivision. This means that while the municipality may be willing to accept further subdivision of a property, the landowner is bound by the easement to forego the opportunity to request that approval. Again, this further restricts subdivision opportunities, but does not replace the subdivision process. For example, if a landowner placed a conservation easement on 80 acres of an unsubdivided 160 acre parcel, that does not entitle them to any sort of subdivision along those lines in the future.

Development Permitting

The development permitting process is unaffected by a conservation easement. If a landowner chooses to undertake a development opportunity that is allowed by both the land use district and the conservation easement, they face the same requirements as a development on a non-conservation-easement property with regard to building permits, approvals, studies, etc.

Conservation Planning

Conservation easements are used by numerous Alberta municipalities to support their conservation goals. It is very common to see Municipal Development Plans make reference to conservation easements, identifying them as a potential tool for supporting the municipality's conservation goals. In some cases this is a reference to working cooperatively with local private land conservation organizations (land trusts), while in others it is enabling direction for the creation of a municipal conservation easement program. Approximately 13 Alberta municipalities actively hold conservation easements.

Best Practices for Municipalities

- **Request spatial files of the properties under conservation easement** within the municipality's boundaries from the conservation easement holders. This is only a request; easement notifications are only required to provide the legal description or municipal address of the property, and the number of acres – no spatial files are required. From a cooperation point of view, this is the best approach, but municipalities can also pull the land title and glean this information from the registered conservation easement.
- It is **not advisable to zone for conservation easements** within a Land Use Bylaw. Conservation ease-

ments are private contracts, not zoning tools, meaning they can be placed on any parcel that has conservation values the parties to the agreement wish to protect. As well, a local government may use a variety of tools to serve its municipal conservation goals, meaning zoning for conservation is a more appropriate route.

- **Incorporate conservation easements into conservation planning**, both those held by the municipality and those held by other qualified organizations. This involves including conservation easements in land use planning maps and exercises, and recognizing them as no-cost (held by others) or low-cost (held by the municipality) opportunities to advance the municipality's conservation goals.

Do conservation easements need municipal approval?

No. A municipal government has no approval authority over the grant of a conservation easement within their boundaries. They are entitled to receive prior notice of the registration of the conservation easement.

'Easements', in general, are a private land legal tool, essentially allowing one party to access and/or use another party's private property. They may be registered on the title of the property and run with the land, binding future landowners. Different types of easements are covered by different pieces of provincial legislation, including the Public Utilities Easements Act, and the Alberta Land Stewardship Act (in the case of conservation easements).

Municipalities make regular use of easements to, for example, ensure they have access to the public infrastructure they create and must maintain. They do this, not as a regulatory authority, but as a party negotiating with another party to secure access to that party's property. In cases where this is insufficient to provide access, they may then escalate this into the regulatory realm and resort to expropriation of the land or the easement, as per provincial law.

A conservation easement operates in the same spirit: a title-registered agreement between two private parties, related to a specific parcel, and governed by provincial legislation. Like other types of easements, there is prescribed reference to local governments, but no approval authority. In the case of conservation easements, this is related to notification.

The Alberta Land Stewardship Act requires that "a person intending to register a conservation easement must give prior notice of the registration" to several bodies, including "the council of the municipality ... in which the land that is the subject of the conservation easement is located." The associated Regulation stipulates this must be "at least 60 days before the presentation of the agreement to the [Land Titles] Registrar for registration."

Because conservation easement negotiations can be very time sensitive, private land conservation organizations (land trusts) will often approach municipalities to request a waiver of the 60-day notification period. It is fully within the municipality's rights to refuse that waiver, and require the full 60-day waiting period prior to registration. However, after that time period, the registration may proceed regardless of the municipality's perspective.

Best Practices for Municipalities

- Similar to **advance planning** for infrastructure that may affect private property, the best approach to ensuring conservation easements are not at odds with municipal priorities is to be proactive. Conservation easement agreements have tremendous flexibility, and oftentimes the specific concerns of a municipality can easily be addressed within the agreement, provided the landowner and the conservation easement holder know about them in advance.
- **Communication** is the key. Waiting until a notice of registration is received is often too late. Municipalities should identify the land trusts operating within their boundaries and establish proactive communication channels. Municipalities can request that they be able to review draft conservation easements to identify if any municipal priorities are being affected.
- It is critically important to make use of the notification. Municipalities often lament that they do not know where the private land conservation activity is in their municipality, but they are provided notice of each and every conservation easement. Municipalities should **add that conservation easement information to their internal records**, ideally in a spatial (i.e., Geographic Information System or GIS) format, so all future planning activities in the municipality are fully aware of where these agreements exist.

Are conservation easements subject to property taxes?

Yes - registration of a conservation easement has no impact on the municipal property taxation method, and provides no tax exemption unless the local government explicitly decides to provide one.

Conservation lands – included those encumbered by a conservation easement and those owned by a conservation organization – enjoy no special property tax assessment status in Alberta.

Property taxes in Alberta are based on the *assessed value of the property* multiplied by the *tax rate* set by the municipality (i.e., assessment x tax rate = taxes payable). All parcels must be assessed using a ‘mass appraisal’ (meaning a standard method). The provincially-regulated valuation standard for a parcel of land is either (a) market value, or (b) if the parcel is used for farming operations, agricultural use value. “Agricultural use value” means the value of a parcel of land based exclusively on its use for farming operations.

For the purposes of taxation, a parcel with a conservation easement will be assessed – like any other parcel – at market value, unless it meets the standard for agricultural use. The landowner is required to pay the annual property taxes as calculated.

Some municipalities, at their own discretion, have chosen to provide a full or partial tax rebate for conservation properties of various types. That is a decision of the local council, and must be formally adopted by that council, and is based on those actions supporting the conservation goals of the municipality as laid out in their Municipal Development Plan.

Conservation easements can have an impact on the taxes payable, though in practice this is rarely the case. The grant of a conservation easement usually includes restrictions on future subdivision and buildings. If the market value of the property prior to the easement was heavily dependent on speculation (i.e., the *potential* to intensively develop the parcel, even if no intention currently exists), then the market value would be decreased and therefore the assessed value. Functionally, this reduces the assessed value to the agricultural value level. An unpublished survey by the Corvus Centre of Alberta land trusts indicates that well over 90% of the acres under *environmental* conservation easement are in fact active agricultural operations,

meaning they would already be assessed at the agricultural value, and the placement of the easement would have no impact on the assessment for municipal taxation.

It is also important to note that in several cases, a conservation easement is registered on only a portion of an unsubdivided parcel. Additionally, if the parcel includes a residence, or the desire for a future residence, those areas are not included in the surveyed conservation easement area. This means that even in the case described above, the ‘market value’ assessment would be unchanged for the residential portion of the property and for the portion not covered by the conservation easement.

Best Practices for Municipalities

- Municipalities should **make an explicit decision regarding whether they want to provide tax rebates for conservation lands**, including parcels under conservation easements. This should include what types of conservation easements would be eligible, and under what conditions this would occur. For example, would there be a difference for conservation easements held by the municipality versus those held by another qualified owner.
- After making this determination, municipalities should reach out and **notify private land conservation organizations working within the municipality regarding the policy** on taxation of conservation lands.

Can municipalities require conservation easements?

Although not prescribed in either the Municipal Government Act or the Alberta Land Stewardship Act, it appears that a municipal subdivision authority can require a conservation easement as part of a subdivision approval. Municipalities are advised to seek legal counsel on this matter, both generally and for their specific circumstances.

When determining whether to require a conservation easement, municipalities need to give careful consideration to two pieces of legislation as well as their own policy.

Relevant Legislation

While most municipal tools are enabled under the

Municipal Government Act, the conservation easement tool is enabled under the Alberta Land Stewardship Act. Section 28 of that act identifies municipalities as ‘qualified organizations’, able to receive voluntary grants of conservation easements. It does not, however, speak to the ability of municipalities to require them in any circumstances, including as a condition of a subdivision approval.

The Municipal Government Act lays out what a municipality’s subdivision authority can require as a condition of approval (s.655), but does so in broad terms. It does not explicitly identify ‘conservation easements’ as an allowable condition, but before identifying a handful of specific condition types, it enables “any conditions to ensure that this Part ...

and the statutory plans and land use bylaws and the regulations under this Part affecting the land proposed to be subdivided are complied with.”

Land and Property Rights Tribunal

The author identified⁵ two relevant Land and Property Rights Tribunal decisions that may help provide clarity.

In the first (Bergen v Lacombe County (Subdivision Authority), 2021 ABLPRT 606), the relevant parts of the case largely revolved around the requirement for an Environmental Reserve Easement (ERE). During proceedings it was suggested that a conservation easement might be a better tool, but the Tribunal concluded:

“[27] The LPRT considered the SA’s submission that the riparian lands could remain on the agricultural remnant subject to a conservation easement (CE); however, the [Municipal Government Act] does not allow a CE to be imposed as a condition of subdivision.”

The conclusion did not suggest it was restricted from being used, only that the Municipal Government Act did explicitly allow it.

The second case (Szybunka v Lac Ste. Anne County (Subdivision Authority), 2023 ABLPRT 246) explored this further. This case is challenged by the municipality in question having redefined “Environmental Reserve Easement” as “Environmental Conservation Easement” in their Municipal Development Plan.

However, the Tribunal stepped past this dilemma and specifically considered the ALSA-enabled ‘conservation easement’ tool, concluding that, “A requirement to register a conservation easement by caveat is an appropriate condition of subdivision to protect the wetland and watercourse.”

This was based on their reading of s.655 of the [Municipal Government Act](#) [MGA]:

“[36] While the [MGA] does not address conservation easements, their purpose is consistent with the intent of the [MGA] to encourage maintenance of the environment expressed throughout the [MGA], (for example ss.3(a.1) and 617) and its regulations (e.g. Goal 5 of the LUP as noted above). Under these circumstances - and given they are specifically contemplated in the municipality’s statutory plan and LUB made pursuant to Part 17 of the [MGA] - the LPRT considers a requirement to register a conservation easement by caveat is an appropriate condition of subdivision under s. 655 ...”

Best Practices for Municipalities

In the absence of clear legislative direction, and based on the decision rationale provided from the Land and Property Rights Tribunal, best practice in this area for municipalities centres around the development of internal policy, can be assumed to include:

- Conservation easements should be **enabled the Municipal Development Plan** by identifying them as a tool allowed and useable by the municipality;
- Clearly **identify the municipality’s conservation goals**, so as to ensure conservation policy tools have a solid backing rationale;
- Within the Municipal Development Plan, applicable Area Structure Plans, and the Land Use Bylaw, there should be a **clear articulation of the purposes for which the conservation easement** tool could be used.
- Municipalities should have a **policy on whether they would require conservation easements** as part of the subdivision approval process. This would require a robust line of policy enablement, right up to the Municipal Development Plan.
- Municipalities should have **procedures and practices that guide the application** of a conservation easement (for both voluntary grants and conditions of subdivision approval)

⁵ The Environmental Law Centre (www.elc.ab.ca) conducted a search on behalf of the Corvus Centre of all Canadian cases involving conservation easements.

Can municipalities hold conservation easements?

Yes. The Alberta Land Stewardship Act identifies several types of entities as ‘qualified organizations’, able to hold conservation easements. This includes any ‘local government body’, which in turn includes ‘the governing body of a municipal authority as defined in the Municipal Government Act.’

In short, a municipality is a ‘qualified organization’, legally able to hold conservation easements.

The vast majority of conservation easements in Alberta are held by not-for-profit charities whose mandate is to hold land and interests in land for conservation purposes, generically known as ‘land trusts.’ However, several Alberta municipalities have identified value in being the recipient and holder of conservation easements. Currently approximately X municipalities collectively hold X conservation easements in the province.

Municipalities that hold conservation easements tend to do so in one of two ways. Some municipalities operate programs that proactively acquire conservation easements. These are voluntary programs that allow local landowners to grant a conservation easement to their municipality. Other municipalities acquire conservation easements through the subdivision approval process. In this case, the grant of a conservation easement may be required as a condition of subdivision approval.

Most people are not aware that other ‘local government bodies’ are eligible to hold conservation easements, including regional services commissions, growth management boards, irrigation districts, and drainage districts.

Best Practices for Municipalities

- A municipality considering holding conservation easements should **ensure they have created the necessary internal systems** to accept and steward perpetual conservation easements, including template agreements, and baseline documentation and monitoring procedures.
- Conservation easement agreements should limit restrictions to **only those clearly required** and capable of protecting the identified environmentally significant features, and ensure they are applied to **clearly defined areas**.

- The author previously wrote a “Conservation Easement Guide for Municipalities” to advise interested municipalities as to what is required in establishing their own program.

How is a conservation easement different from an environmental reserve, environmental reserve easement, or a conservation reserve?

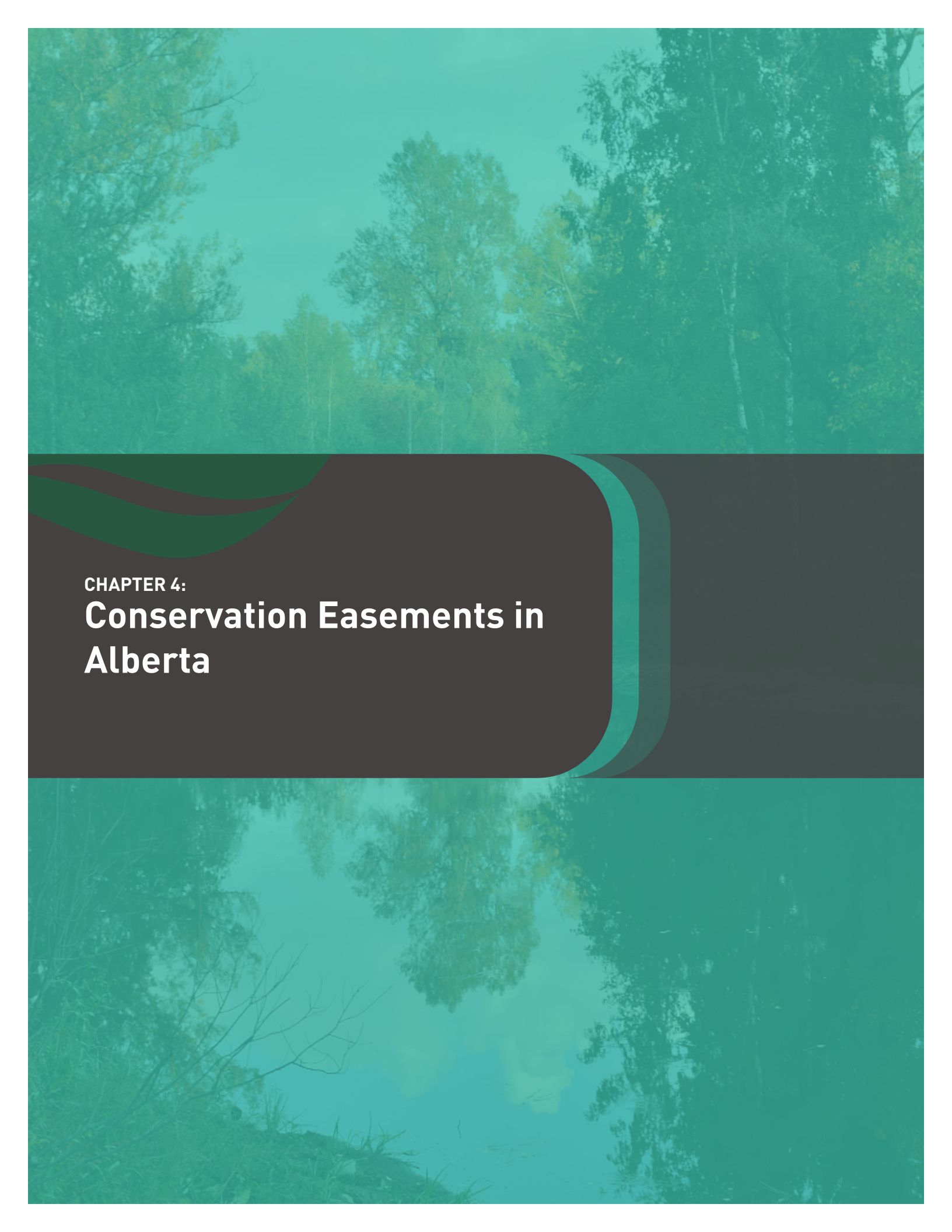
A conservation easement is enabled under the Alberta Land Stewardship Act and can be proactively pursued by any qualified organization, including municipalities. Environmental Reserves, Environmental Reserve Easements, and Conservation Reserves are enabled under the Municipal Government Act, are available only to municipalities, and can only be used reactively, in response to a subdivision application.

Conservation easements are one of four primary land conservation tools available to municipalities; these also include Environmental Reserves, Environmental Reserve Easements, and Conservation Reserves. Though the four may be deployed in support of similar municipal goals, the devil is in the details with regard to how they are initiated and stewarded. No one of them is “better” or “worse” than another. They can be used selectively across the very different land conservation circumstances municipalities encounter.

For a more detailed, side-by-side comparison of these tools, see the table in [Appendix 6: Comparison of Conservation Easement, Environmental Reserve, Environmental Reserve Easement, and Conservation Reserve](#).

Best Practices for Municipalities

- Enable each tool in policy at the Municipal Development Plan level, especially conservation easements, as they exist outside of the Municipal Government Act.
- Use consistent and common terminology, and avoid creating new terms or hybrids for these tools as that can lead to popular and regulatory confusion.
- Create a distinct conservation easement policy that outlines when and where they would be used, and for which purposes.

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CHAPTER 4:

Conservation Easements in Alberta

Conservation Easements in Alberta

History of Conservation Easements in Alberta

Conservation easement legislation was enacted in 1996. An amendment in 2009, added a new ‘agricultural’ purpose. And in 2011, the Government of Alberta introduced the Alberta Land Trust Grant Program to support private land conservation.

Initially, the enabling legislative clauses for the Corvus Centre tool were in the *Environmental Protection and Enhancement Act*. Significant lobbying and public discussion led by landowners, conservation groups, municipalities, and producer groups resulted in the changes made by the Ralph Klein government.

In 2008, the provincial Land Use Framework was completed by the Ed Stelmach government, and the *Alberta Land Stewardship Act* (ALSA) proclaimed in 2009. The new legislation essentially copied-and-pasted with original enabling clauses, but with one significant difference. The purposes of a conservation easement were extended from just biodiversity and aesthetics to be for “the environment’ more generally” and for “agricultural land and land for agricultural purposes.” Of the eleven provinces and territories with enabling legislation for conservation easements, only Alberta and Ontario explicitly include agriculture as an allowable purpose.

In 2011, the Alison Redford government introduced the *Alberta Land Trust Grant Program* as a financially-efficient way to meet the province’s nature conservation goals. The legislatively-enabled *Land Stewardship Fund* was receiving the revenues from the sale of public lands and putting them towards land conservation. Recognizing that full-title purchase was unnecessarily expensive and required removing working lands from the economy, the Fund pivoted to allow its resources to be dedicated to supporting the acquisition of conservation easements, which would give land owners full compensation for the rights and opportunities given up. By 2023-24, it had supported projects conserving 245,000 acres (99,000 ha) of land, but contributing only one quarter of the required funding resources.

Qualified Organizations in Alberta

(Eligible Conservation Easement Holders)

Alberta currently has approximately 30 qualified organizations actively holding conservation easements. Of those, roughly two thirds are municipalities and one third are land trusts, with the Government of Alberta holding a small number.

Working with the Government of Alberta, the [Land Stewardship Centre](#) runs an annual scan of Land Titles to develop a picture of conservation easement use in Alberta. It provides a useful – but caveated – picture of who is using the tool.

Based on the derived data, the breakdown is as follows:

Table 1: Number of conservation easement holders in Alberta

	CE holders (number)	Percentage
Municipalities	19	63.3%
NGOs	10	33.3%
Government of Alberta	1	3.3%

Table 2: Number of conservation easements held in Alberta

	CEs Held (number)	Percentage
Municipalities	966	44.7%
NGOs	1211	54.4%
Government of Alberta	20	0.9%

An inquiry by the author suggests that as many as 450 of the municipally-held “conservation easements” may, in fact, be mislabelled “environmental reserve easements.” If that is the case, then the breakdown would in reality be as follows:

Table 3: Number of conservation easements held in Alberta (revised)

	CEs Held (number)	Percentage
Municipalities	546	30.7%
NGOs	1211	68.1%
Government of Alberta	20	1.1%

Prevalence of Conservation Easements in Alberta

Conservation easements currently exist on approximately 0.87% of private land, and 0.35% of the total land base.

Some data on conservation easement prevalence is relatively easy to come by (conservation easements held by land trusts), but some is not (conservation easements held by municipalities and provincial agencies), making it hard to paint a complete picture.

The following is a best-estimate of the number of acres under conservation easement, as well as what that represents relative to Alberta's public and private land base.

Alberta's land trusts (national, regional, and local) maintain a database of all their conserved properties, including conservation easements. On their behalf, the Miistakis Institute manages a web site of infographics and develops annual summary reports (www.privatelandconservationab.ca). The 2024 edition reports that Alberta's land trusts hold conservation easements on approximately 379,000 acres (153,000 hectares) across Alberta.

There is no readily-available data for the acres of conservation easements held by municipalities. It is safe to say that while they hold 30% - 45% of the easements, none holds the extensive acres that some of the larger land trusts do. Thus, a very generous estimate would be half the acres held by land trusts, or 189,500 acres (76,690 hectares)

Conservation easements on the whole cover a very small portion of Alberta. Within the boundaries of Alberta there are approximately 163,520,000 acres (66,174,00 hectares). Of that, around 60% is in public (government) land, leaving approximately 163,520,000 acres (66,174,00 hectares) of privately-held land.

As a proportion, conservation easements currently (2025) exist on approximately 0.87% of private land, and 0.35% of the total land base of Alberta

Conservation Easements and Agriculture

Alberta's conservation easement legislation was expanded to include agricultural lands in 2009, but the vast majority of 'environmental' easements since 1996 are on active agricultural parcels.

As noted above, a conservation easement in Alberta can be used to protect any of the following:

- the environment;
- natural scenic or esthetic values; and/or
- agricultural land or land for agricultural purposes.

A given conservation easement in Alberta may relate to agriculture in any of the following ways – those created with:

- only the purpose of protecting agricultural land,
- the purpose of protecting the natural features and systems on parcels being actively used for agriculture, and
- the purpose of protecting the natural features and systems of a parcel, and which forbid any agricultural activity.

The first category is relatively new (the agricultural purpose was added 13 years after easement legislation was enacted) and there are few such easements, but that number is only likely to grow.

The vast majority of conservation easements in Alberta fall in the second category.

A conservation easement agreement articulates the 'conservation values' for which it was established, and all land restrictions and prescriptions are drafted to maintain those values. Agricultural operations may be incompatible with those values, but in many cases they are not.

In these cases, a land trust works with the landowner to craft the easement to secure the conservation values, while ensuring compatible agricultural uses are allowed. For example the agreement may restrict any further buildings, but make specified exceptions for smaller outbuildings needed for the agricultural operation.

Legal Challenges to Conservation Easements

Conservation easements have rarely been directly addressed in the courts or administrative tribunals; only eight cases could be found across all of Canada (four in Alberta). When they were addressed, the authority always supported the principles of a conservation easement.

Conservation easements have rarely been addressed, let alone challenged, in Canadian courts and administrative tribunals. At the request of the Corvus Centre, the [Environmental Law Centre](#) conducted a search of the Canadian Legal Information Institute (CanLII) databases to identify any legal cases related to conservation easements that have occurred across Canada. The search returned only eight cases⁶.

In all eight cases, the validity of the conservation easement tool was supported, whether the court/tribunal found in favour of the initiator or the respondent.

Four of the cases emerged from Alberta. In the first one, before the *Alberta Court of Queen's Bench*, the justice's ruling stated, "[I] find the resulting CE valid and enforceable." Two cases (as noted above) went before the *Alberta Land and Property Rights Tribunal*, testing whether a municipality had the power to require a conservation easement (see, [Can a municipality require a conservation easement?](#)). The final one was an *Alberta Environmental Appeals Board* hearing where a claimant argued a development would negatively impact their conservation easement (the tribunal determined the argument and 'affected' property were too remote).

⁶ [1] *Nature Conservancy of Canada v Waterton Land Trust Ltd.*, 2014 ABQB 303; [2] *Beinn Bhreagh Hall Corporation (Re)*, 2018 NSUARB 195; [3] *Aloe v Aloe Estate*, 2019 ONCA 613; [4] *Bergen v Lacombe County (Subdivision Authority)*, 2021 ABLPRT 606; [5] *McMillan et al. v. Director, South Saskatchewan Region, Operations Division, Alberta Environment and Parks, re/ Badlands Recreation Development Corp.* 19-066 to 071, 074, 081, and 083-085-ID4, 2022 ABEAB 22; [6] *2455379 Ontario Inc v. MacDonald Turkey Point Marina*, 2023 ONSC 1417; [7] *Szybunka v Lac Ste. Anne County (Subdivision Authority)*, 2023 ABLPRT 246; [8] *Calder (Rural Municipality) v Ducks Unlimited Canada*, 2024 SKKB 99.



The background of the entire page is a photograph of a dense forest with tall, thin trees. A semi-transparent teal color is overlaid on the entire image. In the center, there is a dark grey horizontal band with rounded corners on the left side. On the left side of this band, the word "Appendices" is written in white. To the right of the text, there are three overlapping, rounded rectangular shapes in shades of teal and dark grey, creating a layered effect.

Appendices

Appendix 1: Holders of Conservation Easements in Alberta

The Land Stewardship Centre in Edmonton, Alberta maintains a list of conservation easement holders based on a scan of Land Titles records. As of July, 2025, the entities holding conservation easements in Alberta were:

- National land trusts
 - [Nature Conservancy of Canada - Alberta](#)
 - [Ducks Unlimited Canada - Alberta](#)
- Provincial land trusts
 - [Alberta Conservation Association](#)
 - [Alberta Farmland Trust](#)
 - [Alberta Wildlife Federation](#)
- Local and regional land trusts
 - [Crooked Creek Conservancy Society of Athabasca](#)
 - [Edmonton and Area Land Trust](#)
 - [Foothills Land Trust](#)
 - [Legacy Land Trust Society](#)
 - [Southern Alberta Land Trust Society](#)
 - [Western Sky Land Trust](#)
- Municipalities
 - Brazeau County
 - Flagstaff County
 - Lac Ste. Anne County
 - Leduc County
 - Municipal District of Big Lakes
 - Parkland County
 - Red Deer County
 - Strathcona County
 - The City of Calgary
 - The City of Edmonton
 - The County of Athabasca No. 12
 - The County of Vermilion River
 - The County of Wetaskiwin No. 10
 - The Municipal District of Foothills No. 31
 - The Municipal District of Wainwright No. 61
 - The Summer Village of Itaska Beach
 - The Town of Canmore
 - The Town of Cochrane
 - The Town of High River
 - The Town of Hinton
- Provincial government
 - Alberta Environment and Protected Areas
- Other
 - Royal Astronomical Society of Canada

Appendix 2: Generic Steps in Granting A Conservation Easement

Every conservation easement is different. However, certain steps are likely to occur in any conservation easement negotiated in Alberta.

By this point, it is this Primer's broken record: thought they all have the same basic form, every conservation easement is different based on the qualified organization, goals of the landowner, and nature of the property itself.

However, it is possible to outline the major steps that occur in the grant of most conservation easements in Alberta:

- **Agreement negotiation**
 - Working off the qualified organization's conservation easement template, the two parties will undertake a detailed negotiation of the conservation easement agreement to ensure it meets the landowner's goals, the organization's goals, and the conservation needs of the parcel.
- **Baseline Documentation Report**
 - An initial "baseline" report is conducted that catalogues all natural features and anthropogenic structures / activities. All future monitoring will be based on this report.
- **Appraisal**
 - An appraisal of the financial value of the conservation easement is conducted by a certified appraiser.
- **Legal review**
 - Both the landowner and the qualified organization will put the agreement to their legal counsel (likely several times).
- **Family / corporate conversations**
 - The landowner will discuss the implications of the conservation easement for their family, heirs, corporate partners, etc.
- **Accounting review**
 - The landowner will work with their accountant to fully understand the financial implications of granting the conservation easement.
- **Estate Planning**
 - Many conservation easements are critical parts of a landowner's estate planning, so discussions may occur with an estate planner.
- **Applications for funding**
 - The qualified organization must seek out funding sources (usually multiple), coordinating their needs and timelines.
- **Signing of the agreement**
 - Once all details of the agreement are worked out, it is signed by both the landowner and the qualified organization.
- **Registration of easement / notifications**
 - Notice of the impending conservation easement must be provided to various authorities, and then the conservation easement is registered at Land Titles to take effect.
- **Compensation**
 - The landowner receives whatever compensation has been agreed to, based on the market value of the conservation easement.

Appendix 3: Common Restrictions in a Conservation Easement

Every conservation easement agreement is different, but some restrictions are relatively common across organizations and agreements. This table is intended to give a broad illustration of the kinds of restrictions that might appear in a given conservation easement agreement.

Do not view this list as a literal articulation of all restrictions that may be in a conservation easement agreement.

Subdivision	Virtually all conservation easement agreements will include a prohibition against the landowner pursuing an application for subdivision.
Buildings	- Virtually all agreements will include some sort of limitation on future buildings. - Existing buildings may be excluded from the conservation easement area. - A future building envelope for a home may be allowed depending on the potential impact on the conservation values. - Agricultural outbuildings may see little or no restriction, again based on the potential impact.
Vegetation management	- Virtually all conservation easements will include some sort of limitations – or requirements – regarding vegetation. - Some may require a management plan or principles based on clearly articulated but flexible best practices, often associated with grazing, haying and/or silviculture. - Other prohibitions or limitations may reference tree removal, breaking, brushing, and/or cultivation.
Water drainage or diversion	- Virtually all agreements will include some sort of limitation on water diversion or drainage. - Restrictions may reference alteration, diversion or drainage of water courses, including seeking permission from the provincial government to do so. - Allowances are often made for wells for agricultural use.
Riparian management	- If applicable, many agreements will contain a clause referencing riparian areas. - Restrictions may reference disturbance of vegetation or soil on shorelines or watercourses or water bodies. - Requirements may reference riparian management principles be followed and/or health assessments be conducted.
Wildlife disturbance	- Ecologically-focused agreements will generally contain restrictions intended to prevent or reduce disturbance to wildlife. - Restrictions may reference noise, lighting, or obstructions that may be reasonably expected to disturb wildlife patterns.
Fencing	- Ecologically-focused agreements will generally contain restrictions related to fencing, in order to prevent obstruction of wildlife movement. - Existing fencing is usually exempt, and future fencing is usually subject to wildlife-friendly standards.
Surface disturbance	- Most agreements will include prohibitions against significant surface disturbance. - Restrictions may reference excavating, dredging, and mining for surface minerals (e.g., sand and gravel) - While conservation easements generally cannot include consideration of subsurface rights, many do restrict the landowner from permitting seismic or exploration operations unless required to do so by law.
Pollution and waste	- Most conservation easement agreements will contain clauses related to different types of pollution and waste storage. - Restrictions may reference chemical pesticides and fertilizers, storage of garbage and waste, and any discharges of pollutants. - Many agreements – especially those for agricultural land – will include limits rather than prohibitions on agricultural chemicals.

Appendix 4: Conservation Easements and the Federal EcoGifts Program

While all donations of a conservation easement receive a charitable tax receipt, certification as a Gift of Ecologically Sensitive Property can provide enhanced benefits for the landowner – and enhanced liabilities for the easement holder.

All conservation easements, when donated in whole or in part, are eligible for a charitable tax receipt. As noted above (see, [How Are Landowners Compensated for a Conservation Easement?](#)), compensation is most often a combination of a charitable tax receipt and a cash payment, adding up to the appraised value of the conservation easement (also known as a Split receipt).

There is an opportunity to enhance that tax receipt, address back taxes, and protect the appraisal by having the donation certified as a Gift of Ecologically Sensitive Property (also known as the EcoGifts Program) with the federal government.

This certification has requirements, benefits, and liabilities:

Requirements

- **Assessment** – The land must be reviewed by Environment and Climate Change Canada personnel to ensure it fits their criteria for ecologically sensitive
- **Appraisal** – The appraisal developed by the certified appraiser must be submitted for approval to the EcoGifts Program's Appraisal Review Board.

Benefits

- **Tax receipt** – The charitable tax receipt is supercharged; instead of needing to use the receipt up in 6 years, the donor will have 11 years.
- **Capital Gains Taxes** – The annual increased value in any capital property is taxable, but the federal government allows for those taxes to be deferred until the property is sold, and at that point only 50% of the increase in value is taxed; EcoGift certification lowers that 'inclusion rate' to 0% for the property.
- **Appraisal guarantee** – Normally, the CRA has three years to review a charitable tax receipt and potentially change its value retroactively; an EcoGift certification (and associated Appraisal Review) will guarantee the appraised value.

Liabilities

- **Change in Use** – For a conservation easement that is certified as an 'EcoGift' no longer has the flexibility for the landowner and easement holder to agree to changes. Those changes must be approved by the federal government; if an unapproved change occurs, the easement holder faces a tax equal to 50% of the original value of the gift. Many 'qualified organizations' will not accept EcoGift-certified conservation easements for this reason.

Appendix 5: Conservation Easement Terminology

Alberta Land Stewardship Act – The Alberta Land Stewardship Act or ALSA – is the legislation that ‘enables’ the conservation easement tool, in sections 28-35

Alberta Land Trust Grant Program – The Alberta Land Trust Grant Program is a Government of Alberta program run by Alberta Environment and Protected Areas that has since 2011 been providing funding to land trusts to support the acquisition of conservation easements and the stewardship of conservation easement and fee-simple properties.

Baseline Documentation Report – A first step in the “stewardship” process is to establish an initial inventory of the conservation condition of the property. All monitoring activity to measure the state of the property in subsequent years is done with reference to this original document.

Before-and-After Appraisals – ‘Before-and-after’ appraisals for the financial value of conservation easements use a methodology where the property is valued without the easement and again with the easement, with difference making up the financial value of the easement.

Conservation Easement – A private, legal agreement whereby a landowner voluntarily restricts certain rights or opportunities related to their land use in favour of a ‘qualified organization’ in order to support identified conservation goals. The agreement is registered on title, and binds all future landowners.

Conservation Easement Area – Because a conservation easement does not need to be placed across an entire parcel, the portion of the parcel subject to the restrictions and requirements of the easement are referred to as the conservation easement area’.

Compensation – Landowners granting a conservation easement can receive financial compensation for the monetary value of the easement. This compensation generally takes the form of tax relief, cash payment, a ‘split receipt’, or a subdivision approval.

Ecological Gifts Program (EcoGifts) – The ‘EcoGifts’ program is run by Environment and Climate Change Canada wherein donations of land and conservation easements can be certified as Gifts of Ecologically sensitive Property, providing enhanced tax benefits and appraisal guarantees for landowners, and enhanced restrictions and penalties for changes in use.

Land Trust – Non-profit, charitable conservation groups that seek to hold land and interests in land for conservation purposes are generically known in North America as ‘land trusts.’ These organizations may have the words ‘land trust’ in their name, or the word ‘conservancy’, or may include neither of these terms.

Monitoring – Conservation easements are monitored on an on-going basis (generally once per year) as part of the stewardship process. Although conceptually similar, each land trust has a different set of procedures and protocols they use.

Notification – The Alberta Land Stewardship Act its Conservation Easement Registration Regulation stipulate the requirement (and form) that certain bodies should be notified of pending conservation easements; this is not to be confused with ‘approval.’

Qualified organization – The Alberta Land Stewardship Act (ALSA) defines the types of entities eligible to receive grants of conservation easements, and refers to these as ‘qualified organizations.’ These include land trusts, municipalities, and provincial government agencies.

Split receipting – A landowner granting a conservation easement may receive a charitable tax receipt or cash in return. Conservation easement holders can also provide “split receipts,” where a partial cash payment is made, and the remainder value is compensated with a charitable tax receipt. The tax receipt cannot exceed 80% of the value of the conservation easement.

Stewardship – Though used broadly in conservation, in the context of conservation easements, “stewardship” refers to the monitoring, maintenance and management activities undertaken in support of the conservation easement AFTER it has been granted.

Stewardship fund / endowment – Land trusts usually establish a fund or endowment to cover the on-going costs of stewardship associated with a given conservation property. Often, land trusts will ask conservation easement grantees to contribute to that fund at the outset.

Subdivision approvals – Unlike land trusts, municipalities who hold conservation easements may offer that option in the context of a proposal for subdivision that has come before them, requiring a conservation easement as a condition of subdivision approval.



Appendix 6: Comparison of Conservation Easement, Environmental Reserve, Environmental Reserve Easement, and Conservation Reserve

	Conservation Easement	Environmental Reserve	Environmental Reserve Easement	Conservation Reserve
Enabling Legislation	Alberta Land Stewardship Act, RSA c.A-26.8	Municipal Government Act, RSA c.M-26	Municipal Government Act, RSA c.M-26	Municipal Government Act, RSA c.M-26
Allowable Purposes	Protection, conservation, enhancement of land's environmental, aesthetic, and/or agriculture values; s.29(1)	Protect specific natural drainage features, prevent pollution to water bodies, allow access to water bodies, restrict undevelopable land; s.664(1.1)	Protection and enhancement of the environment; s.664(3)(b)	Protection of environmentally significant features not eligible for Environmental Reserve; s.664.2(1)
Eligible Authorities	Qualified organizations (including municipalities); s.28(c)	Municipal subdivision authorities; 664(1)	Municipal subdivision authorities and municipalities; s.664(2)	Municipal subdivision authorities; s.664.2(1)
Required / Voluntary	Non-municipal -voluntary; Municipal - may be voluntary and/or may be required by a subdivision authority as part of an approval	Required if requested; s.664.1	Optional – landowner and municipality may agree it will replace required Environmental Reserve; s.664(2)	Required if requested; s.661.1
Trigger / Catalyst	Common interest of grantor and grantee; s29(1)	On subdivision application; s.664(1)	On subdivision application; s.664(2)	On subdivision application; s.664.2(1)
Parcel Size Limitations	Broadly limited to lands that meet purpose definition; s.29(1)	Tightly limited to lands that meet purpose definition; s.664	Tightly limited to lands that meet purpose definition of Environmental Reserve; s.664	Broadly limited to lands that meet purpose definition; s.664.2(1)
Title change	Specific land use restrictions on title; s.33(1)	Transfer of title; s.664(1)	Broad land use limitations on title; s664(5)	Transfer of title s.664.2(1)
Original landowner	Landowner	Developer	Developer	Developer

	Conservation Easement	Environmental Reserve	Environmental Reserve Easement	Conservation Reserve
Ultimate landowner	Landowner; easement holder has interest in land; s.32(1)	Municipality; s.664(1)	Developer; municipality has interest in land; s.664(3)(d)	Municipality; s.664.2(1)
Compensation to landowner	Market value of the conservation easement in charitable tax receipt or split receipt; subdivision approval	Subdivision approval; s.664(1)	Subdivision approval; s.664(2)	Market value; s.664.2(2)
Uses	Any beyond the stated restrictions in agreement	Left in its natural state or used as a public park; s.671(1)	Must remain in natural state; s.664(3)(b)	Protect and conservation environmentally significant features; remain in its natural state; s.664.2(1)(a); s.664.2(1)(c); s.674.1(1)
Changes	By agreement of parties or Ministerial order; s.31	Can use for other purpose by bylaw, after hearing; s.676(1)(a)	No provisions for doing so	Must ensure land remains its natural state; s.674.1(1)
Removal of Designation	By agreement of parties or Ministerial order; s.31	No provisions for doing so	Cancellation of subdivision plan by Bylaw; 658(3.1)	After public hearing; s.675(1)(a)(iii)
Disposition / Sale of Land	No restriction on landowner sale; easement runs with title; s.34(1)	By bylaw, after hearing, transfer to the Crown, or non-sale disposition for no more than 3 years; s.676(1)(b)-(c); proceeds used for original purpose; s.676(3)	No restriction on landowner sale; easement runs with title; s.664(3)(c)	Only if all environmentally significant features lost, subject to hearing; s.674.1(2); proceeds used for conservation; 675(1)(3)(c)
Enforcement	Conservation easement holder or their designate; s.30	Municipality as owner of land	Municipality as holders of interest in land; s.664(3)(e)	Municipality as owner of land
Taxation	No property tax exemption	Tax exempt; s.361(c)	No property tax exemption	Tax exempt; s.361(c)

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