

# Model Documents Overview



WeConservePA develops and maintains model documents to help users plan and complete real property transactions, ensure conservation permanence, reduce liability, and otherwise advance their conservation, outdoor recreation, and land use planning efforts efficiently and effectively.

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## Introduction

WeConservePA maintains a suite of model documents and accompanying commentaries to help land trusts, trail groups, other nonprofits, governments, landowners, and donors (as well as their respective legal counsels) plan and complete real property transactions, ensure conservation permanence, reduce liability, and otherwise advance their conservation, outdoor recreation, and land use planning efforts efficiently and effectively. The models and commentaries are the products of thorough research and analysis, scrutiny by legal professionals, real-world testing, and user feedback. They feature plain language, consistent form, easy-to-read formatting, and incorporation of best practices. The models are used regularly, reviewed for potential improvement, and updated to reflect advances in knowledge and to remain state-of-the-art legal documents.

Each model is written to be fair to all parties in advancing the purpose of that particular document. The models conform to Pennsylvania law but can be easily adapted for use in other states.

Thanks to the generosity of WeConservePA's donors, the models are available free-of-charge at the [WeConservePA Library](#).

## Why Use Model Documents?

Model documents provide several benefits:

- They help avoid the legal and staff costs of reinventing the wheel, allowing model users to save money and focus their resources on addressing issues unique to a project.
- By working within a common model framework, users from different organizations are better able to share ideas and help one another with drafting and other implementation issues.
- Use of a model adds credibility during negotiations since all parties have equal access to a widely accepted legal document and its commentary.
- The research and development invested into each state-of-the-art model—a greater dedication of time and resources than any one or small group of users would commit on their own—enable people to accomplish their work as effectively and efficiently as possible.

Those who have worked with a particular version of a legal document for years may doubt the value of familiarizing themselves with a new version. However, the benefits of using a regularly updated, thoroughly vetted model usually outweigh the time saved by using a familiar version that has not been strengthened by insight from years of scrutiny and use across the country.

## The Models in Brief

WeConservePA's suite of model documents includes the following items:

### Conservation Easements

#### Model Grant of Conservation Easement and Declaration of Covenants

*Shaped by numerous cycles of practitioner review and continuing user feedback, no easement document in the nation has undergone greater public scrutiny and testing.*

#### Model Grant of Conservation Easement and Declaration of Covenants for Riparian Buffer Protection

*An easement tailored for riparian buffer projects.*

#### Model Amendment of Grant of Conservation Easement and Declaration of Covenants

*Intended for use when the easement holder's decision is to amend without restatement.*

### Access Easements

#### Model Trail Easement Agreement

*The document of choice for most trail projects.*

#### Model Grant of Trail Easement

*A short form to use when brevity is crucial.*

#### Model Grant of Fishing and Boating Access Easement

*Ensures public access for fishing or boating.*

#### Model Trail License Agreement

*A tool that gives landowners the flexibility to allow a trail while explicitly ensuring that no long-term obligation is being established.*

#### Model Fishing Access Agreement

*Hybrid easement provides for both resource protection and public access for fishing.*

#### Model Grant of Access Easement for Environmental Stewardship

*Provides access to undertake AMD remediation or other environmental restoration and stewardship projects.*

### Supporting Documents to Easement Transactions

#### Model Stewardship Funding Covenant

*Structures and guarantees payments for easement stewardship.*

#### Model Conservation Easement Donation Agreement

*Spells out the terms for donating and accepting easements and related contributions.*

#### Model Assignment of Grant of Conservation Easement and Declaration of Covenants

*A tool for transferring conservation easements and associated responsibilities to other responsible organizations.*

#### Model Consent, Non-Disturbance, and Subordination Agreement

*Empowers the holder of the mortgage allowing the easement to survive a foreclosure and addresses subordination if tax deduction will be sought for easement donation.*

### Other Real Estate Documents

#### Model Grant of Purchase Option

*Creates the right but not the obligation to purchase land or easements.*

#### Model Grant of Right of First Offer

*Ensures that the landowner will first offer the property to the grantee before others have an opportunity to purchase.*

#### Model Grant of Right of First Refusal

*Gives the grantee the opportunity to match any offer from a prospective buyer.*

### Models Specific to Local Government

#### Model Declaration of Public Trust

*Provides local governments a tool to unambiguously and permanently dedicate land to public recreation and open space purposes.*

#### Model Maintenance and Operation Agreement

*Helps local governments and private recreation groups establish partnerships for providing recreational opportunities on public lands.*

#### Model Riparian Buffer Protection Overlay District

*Helps local governments draft practical, science-based, legally enforceable regulations to protect riparian buffers.*

### **Other Models**

#### Model Release of Liability Form

*Having volunteers and other participants in an organization's activities sign a well-crafted release is a significant step to managing risk.*

#### Model Policy for Conservation Easement Amendment

*Serves as a highly detailed policy or, for organizations that prefer a short policy, as guidance on appropriately addressing potential amendments.*

#### Model Checklist for Real Estate Transactions

*Organizes and expedites the closing of property transactions for conservation projects.*

#### Model Permission for Encroachment

*A license agreement that allows an encroachment to continue until the owner withdraws permission.*

## **Using a Model Document**

### **Review the Commentary**

Most WeConservePA model documents are accompanied by an expansive commentary. (Most are also backed by a guide that explores more broadly the situations where the model is applicable.) When using a model document, be sure to review the associated commentary. The commentary provides optional and alternative provisions, the reasoning behind each of the model's provisions, and guidance in applying the model to particular circumstances.

### **Get Legal Counsel**

The models and commentaries save the legal costs of reinventing wheels. However, be sure to involve legal counsel before completing a project. A good attorney will ensure that, given a project's particular circumstances, the easement document does what is intended.

### **Get Updates**

Check the [WeConservePA Library](#) periodically for updates to the models and commentaries.

### **Adapt to Your State**

Users outside of Pennsylvania need to take care to modify a model to account for differences in state laws.

### **Start from the Model**

Feel free to create your own version of a model by incorporating additional or alternative provisions (from the commentary or otherwise) that reflect your policies and preferences (and state laws). That version or the then-current version of the model (available at the [WeConservePA Library](#)) should be used as the starting point for each new endeavor. In general, avoid using a document prepared for one project as a starting point for another. A model serves in part to remind users of the issues that need to be considered in the drafting process. The value of a model is lost, and errors and omissions become likely, when a document prepared for one circumstance is used as a starting point for another.

## **Users Can Help**

WeConservePA encourages users to [share their experiences using the model and suggestions for improvements](#) with WeConservePA to better inform future editions. The model's developers address every comment received.

If you have found a model document helpful, please consider [submitting](#) a testimonial to help WeConservePA demonstrate the value of the models to those who make them financially possible.

# The Models in Greater Detail

## Conservation Easements

### **Model Grant of Conservation Easement and Declaration of Covenants**

[Link to library item](#)

The *Model Grant of Conservation Easement and Declaration of Covenants* is a state-of-the-art legal document that can be customized to nearly any situation. First published in 2005, WeConservePA published the seventh edition in 2016 and has subsequently updated this edition several times, most recently in 2023. The model is informed by many years of regular and heavy use by land trusts, governments, and landowners across the nation. No easement document has benefited from more real-world testing, user scrutiny, and cycles of peer review. The model's expansive commentary explains the reasoning behind every provision, instructs on applying the model to particular circumstances, and provides alternative and optional provisions to address a variety of circumstances and preferences. The library includes a Quick Start Guide to introduce new users to the model.

### **Model Grant of Conservation Easement and Declaration of Covenants for Riparian Buffer Protection**

[Link to library item](#)

The *Model Grant of Conservation Easement and Declaration of Covenants for Riparian Buffer Protection* provides users with a model grant of conservation easement tailored specifically for the protection of a riparian buffer along a waterway. It shares a development platform with the *Model Grant of Conservation Easement and Declaration of Covenants*.

### **Adding to Land Under a Conservation Easement**

[Link to library item](#)

A landowner has land under conservation easement and is ready to conserve more of their nearby property. How best to carry this out? *Adding to Land Under a Conservation Easement* details three distinct approaches to accomplishing this goal.

### **Model Amendment of Grant of Conservation Easement and Declaration of Covenants**

[Link to library item](#)

If changes to a conservation easement granting document are necessary or desirable, the easement holder must decide whether to amend and restate the document in full or to amend without restatement. The Model Amendment of Grant of Conservation Easement and Declaration of Covenants is intended for use when the easement holder's decision is to amend without restatement.

## Access Easements

### **Model Trail Easement Agreement**

[Link to library item](#)

By donating or selling a trail easement to a nonprofit organization or government, landowners may allow their land to be used for a public trail without having to subdivide or lose ownership of the land. The *Model Trail Easement Agreement* sets the terms by which a trail is built, maintained, and used, while clarifying the landowner's rights and establishing who may be liable if an accident occurs on the trail. Used widely across the United States, this model is the Association's preferred trail easement form.

### **Model Grant of Trail Easement**

[Link to library item](#)

Sometimes brevity is the paramount concern of landowners. The *Model Grant of Trail Easement* is brief—one page (excluding signatures), compared to nearly five for the *Model Trail Easement Agreement*. However, if establishing certainty as to landowner and holder rights and responsibilities and other trail matters is of significant concern, the *Model Trail Easement Agreement* is the better choice.

### **Model Trail License Agreement**

[Link to Library Item](#)

A landowner may be sympathetic to a trail organization wanting to maintain a trail running through the landowner's property. However, the landowner may rightfully

have qualms about making any long-term commitment to public use. The *Model Trail License Agreement* is a tool that gives landowners the flexibility to allow a trail while explicitly ensuring that no long-term obligation is being established and providing for easy termination of the permission if the trail use is not working out to the owner's satisfaction.

### **Model Grant of Fishing and Boating Access Easement**

[Link to library item](#)

The *Model Grant of Fishing and Boating Access Easement* secures public access to waterways while respecting the needs of the landowners providing the access. Users may customize the model to accommodate the forms of public access most appropriate to the property (e.g., fishing, boating, or other recreational and educational uses.) The model may be used alone or in tandem with a conservation easement to provide natural resource protection.

### **Model Fishing Access Agreement**

[Link to library item](#)

The hybrid easement document provides for both resource protection and public access for fishing. The *Model Fishing Access Agreement* is a tool for conservation organizations and governments to build cooperative relationships with private landowners to provide conservation and recreation benefits to the public while keeping properties in the control of the owners.

### **Model Grant of Access Easement Access for Environmental Stewardship**

[Link to library item](#)

The *Model Grant of Access for Environmental Stewardship* secures access through and to property for the purpose of remediating the effects of abandoned mine drainage, or for other environmental restoration and stewardship projects.

## **Supporting Documents to Easement Transactions**

### **Model Stewardship Funding Covenant**

[Link to library item](#)

The *Model Stewardship Funding Covenant* is used by land trusts to secure payment of deferred contributions and other conservation commitments made by owners of eased lands; these commitments can be made binding on both present and future owners of the eased land. The model offers ten ways to structure stewardship funding arrangements so they are both affordable for landowners and adequate to support long-term stewardship.

### **Model Conservation Easement Donation Agreement**

[Link to library item](#)

The *Model Conservation Easement Donation Agreement* helps land trusts avoid getting stuck with unreimbursed major expenses if a would-be easement donor walks away from a project. It outlines the steps to completing a project and the responsibilities of the land trust and donor. It also helps the parties avoid common misunderstandings.

### **Model Assignment of Grant of Conservation Easement and Declaration of Covenants**

[Link to Library Item](#)

The *Model Assignment of Grant of Conservation Easement and Declaration of Covenants* is a tool for transferring conservation easements and associated responsibilities, as well as related documents and stewardship funding, to other responsible organizations.

### **Model Consent, Non-Disturbance, and Subordination Agreement**

[Link to Library Item](#)

When a mortgage precedes an easement on a property, the possibility that one day the mortgage could be foreclosed poses a threat to the continued existence of the easement unless the holder of the mortgage signs an agreement that allows the easement to survive a foreclosure. In addition,

"subordination" is necessary if a tax deduction will be sought for an easement donation. The *Model Consent, Non-Disturbance, and Subordination Agreement* provides a vehicle to satisfy both of these issues.

## Other Real Estate Documents

### Model Grant of Purchase Option

[Link to library item](#)

A purchase option assures the option holder of the right to purchase property at a certain price within a certain time period but does not obligate them to do so. In granting an option, the landowner gives up the right to sell freely during the option period. The *Model Grant of Purchase Option* can help a conservation organization buy the time needed to research a deal, raise funds, assemble adjacent parcels, handle messy ownership situations, and more.

### Model Grant of Right of First Offer

[Link to library item](#)

The *Model Grant of Right of First Offer* allows a conservation organization to document a landowner commitment to turn first to that organization before looking elsewhere for a purchaser. It includes both a right of first offer and a right of first negotiation. It can be structured so that either the landowner or the organization makes the first offer. Unlike the purchase option, it does not generally require the landowner to accept the organization's offer.

### Model Grant of Right of First Refusal

[Link to library item](#)

The *Model Grant of Right of First Refusal* may be used separately or together with the *Model Grant of Right of First Offer* to assure that, after exposure to the market, the conservation organization is afforded an opportunity to match a competing bid the landowner is ready to accept.

## Models Specific to Local Government

### Model Declaration of Public Trust

[Link to library item](#)

This set of models (and accompanying commentary) helps local governments formally dedicate lands to public recreation and conservation purposes and clarify appropriate and inappropriate uses of the land. The *Model Declaration of Public Trust* includes an option to grant a conservation easement to a qualified holder as added protection for the land.

### Model Maintenance and Operation Agreement

[Link to library item](#)

Local governments and nonprofits may decide to partner to offer recreational opportunities for the public in parks or other spaces. The *Model Maintenance and Operation Agreement* is designed to help both parties define their partnerships and lessen the possibility of misunderstandings when carrying out their respective activities, tasks, and duties.

### Model Riparian Buffer Protection Overlay District

[Link to library item](#)

Municipalities use the *Model Riparian Buffer Protection Overlay District* to ensure their land use regulations protect and restore riparian buffers. Local governments can adapt the model to their particular circumstances. The model is accompanied by a letter from attorney Fronfield Crawford, Jr. attesting to the model's legal defensibility and reasonableness vis-à-vis private property rights.

## Other Models

### Model Release of Liability Form

[Link to library item](#)

The risk of being held responsible for injuries or property damage associated with organizing volunteer, educational, recreational, and other events and activities (or opening up property for the same) may be minimized by having participants sign a release agreement. The *Model Release of Liability Form* helps nonprofits minimize these risks. The guide [Release of Liability Form](#) provides commentary for the model.

## **Model Policy for Conservation Easement Amendment**

[Link to library item](#)

Every easement-holding land trust should have a policy regarding amending conservation easements in order to help guide responsible consideration of potential amendments. The *Model Policy for Conservation Easement Amendment* is designed to help land trusts develop such a policy. Land trusts should adapt the model to match their organizational culture.

## **Model Checklist for Real Estate Transactions**

[Link to library item](#)

The *Model Checklist for Real Estate Transactions* helps users organize and expedite the closing of property transactions for conservation projects. It also provides a system for establishing easily referenced records for transactions.

## **Model Permission for Encroachment**

[Link to Library Item](#)

The *Model Permission for Encroachment* is a license agreement that allows an encroachment to continue until the owner withdraws permission. The model document also features owner protections from claims pertaining to injury or property damage, a requirement that the encroacher comply with the law, and the termination of any rights the encroacher may have to claim adverse possession.



[Andrew M. Loza](#) authored the guide. Nate Lotze and Loza updated it in 2017 and 2018, and Robert Campbell did so in 2024.

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