

Conservation options for private landowners

There are various types of conservation tools that provide varying levels of protection depending on the wishes of the family concerned, the site's natural features and the conservation objectives involved. Government agencies and conservation organizations can be an excellent source of information to help Canadians find the most suitable formula in each situation. They can also provide technical and financial support. And of course municipalities must not be forgotten. They have access to financial and legal specialists, who can provide an accurate assessment of the situation.

The conservation option chosen will depend on the approach adopted. A landowner may decide to retain ownership of his/her property but convey certain rights to an organization. That is considered a conservation agreement. Or the owner can decide to transfer the full title to a conservation organization, which is then considered to be making an *acquisition*.

The most common conservation agreements in Québec are:

- statements of intent
- management, development and enhancement agreements
- rental contracts or leases
- personal servitudes
- real servitudes
- agreements between owners

Acquisition options include selling or making a gift of land.

Statement of intent

This is not a legally binding contract, but rather a moral undertaking. It may involve a promise to carry out specific actions to improve a site or discontinue certain activities that are harmful to the environment. Although there is no real connection or obligation in this procedure, it can nonetheless be the beginning of a collaboration with a conservation organization to protect wetlands.

Management, development or enhancement agreement

Under such a contract, the owner and conservation organization agree to work together to manage and/or develop the property's nature features. This agreement can take two forms: the parties can opt to manage the land jointly, or the owner can simply delegate management of the property to the organization of his/her choice. Although financial or technical support may be provided, the agreement does not produce revenues for the contractor, but rather the value added as a result of the new enhancements to the property.

Rental contract or lease

If an owner does not want to sell his/her property, it can be rented. Subject to certain restrictions, and for a set period, the tenant will carry out work to protect the wetlands.

Servitudes

In the case of servitudes, the owner retains title of his/her land and the right to continue living on it, but conveys certain rights to a land conservation organization or public body. The owner may agree to no longer carry out certain activities deemed detrimental to the environment, such as infilling wetlands. Conversely, if stipulated in the contract, the owner may continue to use the land for some activities (e.g., farming).

Agreement between landowners

A group of landowners may sign an agreement restricting how their property can be used according to criteria that they themselves have established. Such an agreement can take three forms:

- the owners may transfer a parcel of their property to be protected to a non-profit organization of which they are the sole members. Decisions will thus be made by the organization's board of directors.
- The owners may pool their respective parcels and come to an agreement before making decisions.
- Each of the owners may contractually agree not to carry out activities that could be harmful to the environment.

Gifts

There are many types of gifts of varying complexity with different benefits (outright donation, gift by will, conditional gift, gift with conservation of right of use, etc.) An owner choosing this option relinquishes all title to the land and the beneficiary of the gift becomes responsible for the expenses incurred to maintain and conserve the property. The gift may produce income tax benefits and if the land donated is environmentally sensitive or has a clear ecological value, the owner/donor could receive preferential tax treatment ([Ecological gifts](#)).

Property sale

A landowner may be interested in simply selling his/her property to a conservation-minded organization or the government, which will take responsibility for preserving the property's natural features in perpetuity. There are a number of sale options, depending on each party's requirements: sale at fair market value, bargain sale, instalment sale, conditional donation, etc. There are two other options that give future buyers priority: the option to purchase and the right of first refusal.

Whatever the basic method adopted (conservation agreement or acquisition), each one will contain a series of options that meet a specific need in order to conclude temporary and permanent agreements. Both approaches are bi-directional (from owner to organization or vice versa), and both have their share of pros and cons, so it is crucial to be completely familiar with all the conservation options available in order to carry out a conservation project.

Two reference documents produced by the [Centre québécois du droit de l'environnement](#), offer detailed information on this matter (available in French only):*

- [Le guide du propriétaire - options de conservation \(1996\)](#) provides owners with simple and complete information on ways to protect the natural features of their property and the financial benefits that can result;
- [Le guide des bonnes pratiques en intendance privée - Aspects juridiques et organisationnels \(July 2000\)](#) by Jean-François Girard of the Centre québécois du droit de l'environnement is an instructional tool that includes a host of legal, technical and practical information to help interested organizations and groups carry out conservation projects.

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