



# Parks & Open Space

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## What is a Conservation Easement?

*This description is general for informational purposes only and is not meant to be an all-inclusive list of restrictions contained in a specific existing conservation easement held by Boulder County or a new proposed easement to be held by the county.*

A conservation easement is a voluntary agreement by a landowner to limit development on a property and/or restrict uses of the property for the purpose of protecting the property's natural features, agricultural land (if any), historical significance, and/or other open space qualities, such as preserving a buffer between communities. Conservation easements are held by a qualified holder (typically a local government, state government agency, or land trust), which is charged with upholding the interest for the benefit of the public. The public benefits from the preservation of the property's natural features, but the land remains privately owned and is not available for public on-site use of any kind. The landowner remains the land manager and retains all property rights that are not conveyed in the conservation easement, and the conservation easement holder monitors the property for compliance with the conservation easement's terms over time. Conservation easements are usually perpetual and remain in effect when the property is transferred to a new owner.

Below is an example list of provisions that Boulder County conservation easements may include. Boulder County requires the language in each conservation easement to be tailored to protect the conservation values of each individual property. It is essential to look at each easement to learn about individual property restrictions.

Conservation easements held by Boulder County generally do these things:

1. Remove or limit the number of building rights, limit the size of residences, and limit the number and size of agricultural structures and all associated buildings.
2. Prohibit division or annexation of the property, and prohibit uses that are considered destructive to the property's conservation values, such as:
  - Equestrian centers
  - Intensive agriculture (agriculture conducted inside buildings)
  - Commercial uses
  - Educational facilities
  - Community meeting uses
  - Commercial hunting
  - Active recreation (only passive recreation is typically allowed)
  - Fencing, unless wildlife-friendly
  - Signs greater than 20 square feet in size
  - Use of hazardous chemicals on the property, except for agricultural use (e.g., to control weeds)
  - Paving except for the entrance road to the one allowed residence
  - Running utility lines through the property to serve other properties

- Pollution and/or drainage of surface and sub-surface water
  - Mining
  - Feedlots
  - Topography changes for non-agricultural uses
  - Changes to streams, creeks, wetlands, ponds and ditches except as necessary to maintain ditches
  - Off-road use of motorized vehicles, except for agricultural uses or snowmobiles for non-commercial recreation
3. Give Boulder County the rights to:
- Be involved in land use processes
  - Participate in negotiating surface use agreements with oil and gas companies
  - Enter the property with 48 hours' notice to monitor for compliance with the easement terms
  - Enforce the terms of the easement
4. Protect other resources on the property, such as:
- Riparian areas, wetlands, reservoirs, ditches and creeks important for wildlife and fisheries habitat
  - Structures of historic significance as determined by the Boulder County Historic Preservation Advisory Board
  - Agricultural productivity by 'tying' water rights to the property, ensuring that the water will never be sold, transferred or leased from the property, yet allowing the landowner to retain all ownership of the water.

In general, landowners retain the rights and responsibilities to:

- Use the property for all purposes that are not prohibited or restricted
- Manage the property in accordance with the easement's restrictions
- Pay for all taxes, management and maintenance

Boulder County has been working since the 1970s to protect natural resources through land conservation. The county holds hundreds of conservation easements that are designed to remain in effect for perpetuity. Boulder County has also used conservation easements to protect land temporarily until it can be acquired for open space. Through regulatory land use processes where the landowner received approval in exchange for a conservation easement, the county holds conservation easements with restrictions intended to be perpetual unless certain defined land use circumstances arise. Less-than-perpetual conservation easements do not violate state or federal law because no donation value is involved. Boulder County's innovative use of conservation easements protect the natural habitats, scenic views, community buffers and other open space in Boulder County.