



CHIRICAHUA LAND CONSERVANCY

Protecting natural places for current & future generations

PROCEDURES FOR MAKING A BEQUEST OF LAND TO THE CHIRICAHUA LAND CONSERVANCY

This is a practical roadmap to bequest (or convey at death) land located in Arizona or New Mexico to the Chiricahua Land Conservancy (which we will call the “CLC” for the sake of brevity). Here are two common paths: (A) by **will or revocable trust** (which involves probate court proceedings and/or trust administration) and (B) by a **transfer-on-death deed** (avoids probate). **This is general information as of 2025, is subject to change, and does not constitute legal advice. You should consult your estate planning attorney, accountant, or financial advisor to discuss the best way to structure your bequest to the CLC.**

NOTE: The procedures outlined in this brochure are for bequests of land. For bequests of cash, stock, or other gifts unrelated to land, please see the CLC’s Gift Acceptance Policy [\[link\]](#), which summarizes the types of gifts the CLC can accept and outlines our acceptance procedures. If you wish to make a bequest of land or other property/assets, we encourage you or your attorney to contact us to ensure we are able to accept your gift and can honor your intentions.

Prep work (same in AZ & NM)

1. **Inform the Chiricahua Land Conservancy (CLC)** of your gift intent, property details, and any restrictions. The Chiricahua Land Conservancy would like to work with you to craft a Donation Agreement that clarifies your intentions and CLC’s responsibilities.
2. **Inform your executor/trustee** where originals of your will or trust are stored and provide CLC’s contact information. Our contact information is: PO BOX 16234, Portal, AZ 85632 ; info@chiricahualandconservancy.org ; <https://chiricahualandconservancy.org/>

3. **Specify the recipient.** The CLC's legal name is the **Chiricahua Land Conservancy, an Arizona non-profit corporation**, and our federal nonprofit *EIN* for tax purposes is 87-2317440.
4. **Gather your property information for your estate planner.** Information your estate planner may need includes your current deed, title search/abstract or title insurance policy, surveys, parcel number, liens or mortgages encumbering the land, HOA dues, leases, easements, use restrictions, water/mineral rights, and any prior environmental or zoning reports.
5. **Decide your intent.** Unrestricted gift vs. purpose-restricted (e.g., "to be conserved for wildlife habitat"). If you wish to make a restricted gift, please contact us first to discuss your objectives and the related restrictions.
6. **Choose the proper legal mechanism.** Decide how the bequest will be achieved, ie., choose whether to convey to the CLC by way of a will, trust agreement, or deed.
7. **Hire a local attorney.** Deeds conveying land, wills, trusts, and similar legal documents must be created with certain legal formalities or procedures having been satisfied, and these documents (and your related objective) can be voided by mistakes or omissions in the formal legal process. You should retain an attorney who practices in the state where the property is located (or the state where you reside, as applicable) to assist with the preparation and execution of any such documents.

Path A — Bequest via Will or Revocable Living Trust

Add a specific devise clause in your **will** or distribution article in your **revocable trust**. Example language (to be tailored by your lawyer):

"I devise my real property located at [legal description/address/APN] to the Chiricahua Land Conservancy, an Arizona non-profit corporation, EIN 87-2317440, or its successor ("**CLC**"), to be used for [unrestricted use or purpose-restricted use] as stipulated in a Donation Agreement with the CLC dated _____; or if CLC is unavailable to accept the devise, to a charitable organization with substantially similar purposes as CLC."

NOTE: If the land you wish to bequeath or transfer to CLC is jointly-owned with someone else, then the co-owner must consent to or join in the legal documents required to transfer the land. In addition, AZ and NM are community-property states, which generally means that land acquired by either spouse during a

marriage could be considered jointly owned by both spouses even if the land was titled in only one spouse's name. Finally, you may be required to notify and/or obtain the consent of third parties who hold a lien, mortgage, or similar legal interest or right in the land. For these reasons, you should have your attorney confirm the state of title to the land and identify any third parties who should join in the necessary legal documents.

Path B — Transfer-on-Death Deed (avoids probate)

This is a deed you sign now that transfers ownership of the land to CLC **only at your death**. You retain full control while alive and can revoke the transfer at any time before your death.

Arizona: Use a **Beneficiary Deed**. You must record the properly executed deed with the county recorder where the land is located before you die, otherwise it's ineffective. If you are married or the land is jointly owned with others, then your spouse and all co-owners must sign the deed for the transfer to be valid. Your lawyer will confirm the state of ownership and coordinate spousal or co-owner conveyance language if necessary.

New Mexico: Use a **Transfer-on-Death (TOD) deed** under the Uniform Real Property Transfer on Death Act. Like AZ, spousal joinder is required for community property, co-owners must jointly execute the deed, and the deed must be recorded in the county official records where the land is located before your death.

OTHER CONSIDERATIONS.

Signing formalities:

Executing a will, trust agreement, or deed involves legal formalities (i.e., the presence of witnesses and/or a notary public). In addition, some legal documents are not effective until they are properly delivered and/or recorded in the public land records. Failing to strictly follow these requirements can invalidate the document, transfer, or bequest. You should accordingly have your attorney advise you regarding these formalities so that your objective is achieved.

By way of example, here are a few legal formalities you might encounter:

Will: Must be signed by you and two attending witnesses. A self-proving affidavit is strongly recommended so the will can be admitted without witness testimony.

Trust: A trust allows property to be held by a fiduciary (the trustee) for the benefit of named beneficiaries and also allows for the conveyance of trust property without probate proceedings; provided that the legal formalities for creating, funding, and administering the trust are strictly met. The scope of those formalities is too complex to summarize here, and you should consult with your attorney and financial advisor before choosing this option.

Deed: Land ownership is transferred by deed, and in both Arizona and New Mexico the deed must be executed by all necessary parties (i.e., the grantor and - if the land is community property - the grantor's spouse) before a notary public, must include an accurate legal description of the land and an identifiable grantee to whom ownership will be transferred, and must be delivered, accepted by the grantee, and recorded in the land records for the county where the land is located.

Transfer after death:

If the property transfer is by will/trust: Your personal representative/trustee handles title. Personal representatives in both states have broad statutory powers to sell or convey real property, and title is conveyed to the CLC by a personal representative's deed or trustee's deed.

If the property transfer is by Transfer-on-Death or beneficiary deed: The CLC typically records proof of death and any county-required affidavits, at which time land ownership transfers to CLC.

Mortgages, liens, and encumbrances:

Transferring ownership of land does not release any mortgage, lien, or encumbrance on the land until and unless the underlying debt or obligation is satisfied or discharged. The CLC may decline to accept ownership of encumbered land, and may instead require the encumbrance to be released prior to accepting title.

Taxes & valuations:

Estate tax charitable deduction: If your estate is large enough to file a federal estate tax return, bequests to charity can qualify for a deduction under the Internal Revenue Code. Your attorney/financial advisor will coordinate the related appraisal and reporting process.

Income/capital gains: The donor's income taxes are not affected by a bequest at death.

Property taxes/assessments: The land owner remains responsible for property taxes and other liens and mortgages until ownership transfers to the CLC.

"In case things change" language

If the CLC cannot accept the bequest or no longer exists: Ask your attorney to include one or more specifically-named alternates (backup charities), and/or a clause authorizing your personal representative or trustee to select an alternate charity. In this situation, courts in both states can apply the legal principle of cy pres to carry out your charitable intent as closely as possible.

Right to revoke: Keep a list of where your original will/trust and any Transfer-on-Death or beneficiary deed are stored. If you change your mind, revoke and replace them promptly, and notify CLC of the change to your bequest.

Quick state checklist

Arizona checklist

- ☒ Will formalities: sign + **two** witnesses; consider **self-proving** affidavit. A.R.S. §§ 14-2502, 14-2504.
- ☒ Non-probate option: **Beneficiary Deed**; **record before death**; special rules with joint/community property. A.R.S. § 33-405.
- ☒ Personal Representative authority to deed/sell: A.R.S. § 14-3715.
- ☒ Cy pres (charitable intent protection): A.R.S. § 14-10413.

New Mexico checklist

- ☒ Will formalities: sign + **two** witnesses; **self-proved** affidavit optional. NMSA §§ 45-2-502, 45-2-504.

- ☒ Non-probate option: **TOD deed; record before death** (Uniform Real Property TOD Act).
- ☒ Personal Representative authority to deed/sell: NMSA § 45-3-715.
- ☒ Cy pres (charitable intent protection): NMSA § 46A-4-413.

Minimal bequest clause (show your lawyer)

“I devise my real property located at [legal description/address/APN] to the Chiricahua Land Conservancy, an Arizona non-profit corporation, EIN 87-2317440, or its successor (“**CLC**”), to be used for [unrestricted use or purpose-restricted use] as stipulated in a Donation Agreement with the CLC dated _____; or if CLC is unavailable to accept the devise, to a charitable organization with substantially similar purposes as CLC.”

Next steps for donors

- Contact the CLC to discuss your intended bequest to CLC and any limitations on CLC’s ownership or use of the land. CLC will then determine whether the bequest is consistent with its mission statement and perform initial due diligence on the land. If the bequest is appropriate, then you and CLC will prepare and sign a Donation Agreement outlining the bequest terms.
- Discuss with your estate planner whether a **Will/Trust or a Beneficiary/TOD deed** is best for you.
- Book a meeting with an AZ or NM estate-planning attorney to draft/record the chosen instrument pursuant to the Donation Agreement.