

Frequently Asked Questions

What is a Conservation Easement?

A conservation easement is a legally binding agreement between a landowner and a governmental agency or conservation group entity that permanently limits uses of the land in order to protect ecological, historic, or scenic resources. Besides possessing a piece a piece of land and paying taxes on it, landowners have rights to the land such as the ability to subdivide, build structures, cut trees, mine for minerals, and other rights. A conservation easement allows a landowner to retain ownership while restricting some of those rights in order to protect the property's conservation values. Easements are custom designed and negotiated to meet the personal and financial needs of the landowner. An easement may cover portions of a property or the entire parcel. The easement will identify the rights the landowner wishes to retain, limit, or forgo.

What does a typical Conservation Easement contain?

Typical conservation easements between landowners and easement holders will do the following:

- Follows the Internal Revenue Code guidelines for establishing conservation easements
- Specifies how the easement meets the mission of the conservation agency
- Establishes the criteria by which the easement meets the test of natural habitat, productive forestry, scenic values, or historically important land area
- Protects against commercial or residential development of the property
- Specifies that the land may continue to be used in future years, as it is now, for traditional rural uses such as farming, forestry, hunting, wildlife management, etc.
- Allows for timber harvesting in conformance with "best management" standards and mutually agreeable management plans
- Specifies the maximum number of buildings which may be located on the property in the future.
- Conserves a special animal or plant habitat, wetland feature, or historic resource

As a legal agreement, a conservation easement is recorded in county records. Easements are granted in perpetuity, and therefore, all future owners are subject to the easement's conditions. The role and responsibility of the easement holder is to work with the landowner to ensure that the conservation values identified in the easement are protected over time.

What rights does the landowner retain?

The landowner retains all property rights except the ones specifically and voluntarily relinquished or restricted by the easement. The landowner continues to own the land and can use it in any manner consistent with the easement provisions. Commonly, conservation easements with easement holders allow the owner to continue doing on the land what he or she was doing prior to donating the easement. The owner can sell the land, live on it, or leave it by will. The landowner maintains and manages the property and continues to pay real estate taxes. In essence, while an easement must protect the conservation values of the property, it can be designed in a flexible manner by the landowner to achieve a broad range of personal goals.

What properties are considered for a conservation easement?

Conservation agencies or groups consider accepting easements that further the mission of the organization and provide strategic conservation values that benefit the general public.

Preference is given to those easements that protect land:

- With important concentrations of natural, historic, and/or open space resources
- Facing a high risk of conversion for development
- Adjacent to existing easements or other protected open space areas
- Containing a low level of existing development
- With a low potential for future problems in monitoring, management, liability, and enforcement

Must a Conservation Easement allow public access on the property?

No. Landowners granting conservation easements choose whether or not to open their property to the public. Public access is only required if the primary conservation value of the property is public recreation or education. Scenic or historic preservation easements require public visibility, but not necessarily access. Most easements do not require public access because they are protecting significant wildlife or plant habitats, open space, or agricultural lands.

Why do landowners sell or donate Conservation Easements?

Landowners sell or donate conservation easements for a variety of reasons. Foremost is a love of their land a strong desire to protect it for their families and future generations. Conservation easements are powerful estate planning tools that provide families the opportunity to plan together for the future of their land. Neighboring landowners who create conservation easements on contiguous properties provide mutual protection against unwanted or unplanned development while sharing the benefits of conserving larger resource areas for wildlife, scenic landscapes, privacy, and prescribe burning.

The sale or donation of a conservation easement may provide substantial tax benefits through the reduction of federal income and estate taxes, and possible property tax relief.