

Central Virginia Land Conservancy

www.cvalc.org



The What and Whys of Conservation Easements

WHAT: A conservation easement is a legal agreement between a landowner and a land trust or government agency that protects features that make the land special. The agreement is voluntary and can be tailored to the landowner's wishes regarding the future use of the land. The landowner retains ownership, use, and control of the property and can sell it or pass it on to heirs. Typically a conservation easement restricts development or uses that would destroy natural, scenic, or historic areas while at the same time allowing traditional uses such as farming, forestry, hunting, hiking, and fishing. Easements are an excellent way to preserve our rapidly vanishing countryside. Conservation easements are permanent and are written into a conservation easement deed. The terms of the easement apply to all future landowners. The organization holding the easement is responsible for making sure the easement's terms are followed.

WHY: Landowner benefits of conservation easements:

Permanent Protection

Owners are assured that their property will remain largely undeveloped, permanently. Even after the easement donor's ownership comes to an end, the easement holder will be there to ensure the most valued characteristics of the property continue to be protected.

Continued Private Ownership

Land protected by a conservation easement is still private property. Typically, an easement does not change the way private land is used. Most owners design their easements to ensure that future owners can continue to use the land as they have or in other ways compatible with the resource being protected.

Tailored to the Property and the Owner

No two parcels of land are exactly the same. Likewise, no two landowners share identical situations or goals for their property. The advantage of conservation easements is that each easement is unique, written to fit the land it protects and the circumstances of the property owners.

Financial Incentives

Conservation easements often provide significant financial benefits. Easement donors can use the proceeds from these savings to buy more land, pay down debt, or save for retirement, all without having to sell a single acre of the land they love.

A landowner who preserves property is helping the community in many ways:

- Land and water, plants and animals, farms and forests, history and heritage all benefit from conservation.
- Cost of services studies show that these lands generate a fiscal surplus which helps offset the shortfalls created by residential demand for public services, keeping taxes lower.
- Since land in easements is assessed at a lower rate, the locality may get more state funding for schools than if the land were not in easements.

Tax Benefits – Congress determines applicable tax benefits for conservation easements, and the benefits described below are current as of the time of publication of this newsletter. **Please consult your attorney and/or accountant for professional advice on the implications for your own tax situation.**

In order to take advantage of tax benefits, a landowner must obtain a "before" and "after" appraisal of the property. A qualified land appraiser determines the difference in value between the land with and without an easement, taking into account the value of the development rights forgone by the donor. The difference in value is the basis for calculating the potential tax benefits.



PO Box 12105
Lynchburg, VA 24506
434-942-4320

Virginia State Tax Credit - The state of Virginia has one of the most generous preservation tax credits in the nation. The credit, valued at 40 percent of the value of the easement, can be used to offset the donor's Virginia income tax liability dollar-for-dollar. Taxpayers may use up to \$20,000 per year through 2020 and \$50,000 per year in subsequent tax years. Tax credits may be carried forward for up to 13 taxable years. In addition, any unexpended portion may be transferred or sold to another Virginia taxpayer. State income tax credits under the Virginia Land Conservation Incentives Act in excess of \$1 million must be reviewed and approved by the Virginia Department of Conservation and Recreation in accordance with adopted review criteria.

Federal Charitable Gift Deduction - The Internal Revenue Service (IRS) considers the donation of a conservation easement to be a special charitable gift. The value of the easement not used for state tax credits may be deducted from the donor's income when calculating income taxes. Landowners can claim a deduction of 50% of their adjusted gross income (AGI), which if not used up in the year the donation is given, may be carried forward at 50% of AGI for an additional fifteen years or until the donation is fully expended. In addition, a farmer or rancher who will receive more than 50% of adjusted gross income from the trade or business of farming or ranching is eligible for a tax deduction of 100% of adjusted gross income. The deduction may not be transferred.

Federal Estate Tax Exemption - If certain requirements are satisfied, up to an additional 40% of the after-easement value of the land can be excluded from a landowner's estate for estate tax purposes. The maximum amount that may be excluded is \$500,000. Heirs might be able to retain land they otherwise would have been forced to sell in order to pay estate taxes.

Local Property Taxes

Local property taxes may be reduced; however, if land is already assessed at "use value," in other words, enrolled in a local Land Use Assessment Taxation Program, additional reductions in taxes are unlikely.

Frequently Asked Questions

Will I still own my land after I do a conservation easement?

Yes. You may still sell it, give it away, live on it, and continue to use it for farming, forestry, and nature. What you have given up is the right to develop your land in ways that are restricted by the easement.

Does a conservation easement give the public access to my land?

No. You still decide who visits the property. Most easement donors do not want - and therefore do not allow - public access to their property.

Does the easement have to include all of my property?

No. Some easements only cover a portion of the landowner's property as long as the property meets any minimum acreage requirements of the organization holding the easement.

Can I still leave the land to my children?

Yes. In fact, a conservation easement may reduce or eliminate inheritance taxes and keep your heirs from having to sell the land to pay the taxes on it.

What if there is a mortgage on my land?

You can still place a conservation easement on the property, but the lender must agree.

How long does it take to complete a conservation easement?

Depending on the complexity of the easement, the process can vary from a few months to a year or longer. Many landowners want to proceed slowly and deliberately with such a major decision.

What local landowners with easements say

"What do you want your legacy to be? I see what's been happening around the property and I'd rather my legacy not be that. Subdivisions are a dime a dozen but large, undisturbed tracts of land are rare."

"I've seen a lot of the Virginia I once knew fall to development. We wanted to make a small contribution to preserving what is left. I hope this land will be in my family for generations and always stay pretty much the way it is now."

"The beautiful acreage is motive enough to protect the property, but the fact that the family was able to keep it intact for over 100 years was another reason. It would be a shame to lose the integrity of the property after all this time."

"We're not giving up anything, we're preserving something."

"To me, the emphasis is the preservation of the farm land. Once you lose the farm land, I think it's going to be hard to get it back."

"Our biggest goal with it is we did not want to see it broken up and split into smaller lots and developed and destroyed. More than anything, we wanted to preserve the beauty of the mountain well past our lifetimes."

"Both of us saw what happens when development keeps moving out and moving out, and slowly swallows up the countryside. But with an easement, long after we're gone basically, it's protected forever."

"I feel that I am promoting the conservation attitudes instilled in me by my forebears, the most relevant of which to me is: take care of the land, and the land will take care of you."

Your land is one of the most important and valuable possessions you own. The decisions you make regarding its current and future use will have long-term consequences for both your family and community. If a conservation easement seems like an option you would like to consider for your property, or if you would like further information please call us at 434.942.4320, visit our website at www.cvalc.org, or email info@cvalc.org.



Leave a Legacy