FAQs about Conservation Easements

What is a conservation easement?
A conservation easement is a legal agreement between a landowner (the grantor) and a conservation organization or agency (the grantee) that separates the rights to exercise more intensive uses—such as construction, subdivision, and mining—from other rights of ownership. These “development rights” are then transferred to the grantee through the easement deed. The grantee agrees to hold but not use the development rights and to ensure that they are not used by anyone else. Conservation easements are granted in perpetuity and apply to the land regardless of who may own it in the future.

Land under easement is still privately owned and managed. Typically, it is used for agriculture, forestry, wildlife habitat, scenic views, watershed protection, recreation, and education. Working together, the landowner and the grantee determine the appropriate land uses, which are then detailed in the easement deed.

What uses are prohibited?
Most easements prohibit commercial, industrial, and mining uses of the land. These include changing the topography, such as dredging and filling in wetlands or along shorelines; disturbing the habitat of rare or endangered species of plants or animals; erecting outdoor advertising structures such as billboards; removing topsoil and other surface or subsurface materials; and constructing residential, commercial, or industrial buildings.

What uses are permitted?
Agricultural and forestry activities are permitted and encouraged on most easement-protected land. These activities include managing the land to improve wildlife habitat; changing the topography for farming or forestry; and building structures such as culverts, bridges, signs, barns, sheds, fences, and dams, when necessary for farming and forestry.

Can the public enter my land?
Not unless you allow it. Most easements let the landowner decide whether or not to allow public access. Landowners often grant the public the right to cross the property when part of the land traditionally has been used as a public trail or access point to a public pond or lake.

Can I transfer my land?
Land protected by easement can be sold, given, or otherwise transferred at any time. Such transfers will not affect the integrity or enforceability of the easement. This is one of the key benefits to protecting land through a conservation easement.

What are the financial benefits?
Income taxes. Donation of development rights through an easement constitutes a charitable gift, which may be deductible for federal income tax purposes. The value of the gift, determined through a qualified appraisal, is equal to the difference between the fair market value of the property before and after the easement is donated. To be deductible, an easement must meet certain minimum federal conservation objectives.

Estate taxes. State and federal inheritance taxes on unrestricted land are often so high that the heirs must sell some or all of the land just to pay them. Because an easement reduces the value of the property and therefore the value of the landowner’s estate, the inheritance taxes are also reduced. Thus, an easement may enable heirs to keep land they otherwise would be forced to sell.

Gift taxes. When a landowner gives land to a family member, the gift is subject to federal gift taxes if its value exceeds the maximum tax-free amount. Lowering the value of the land through an easement may allow the owner to give more land in any one year without creating a gift tax, or it may help reduce the amount of tax owed.

Property taxes. Most property protected under a conservation easement qualifies for reduced taxation under current use or conservation restriction assessment, and landowners are usually encouraged to apply.

Where do I start?
In most states, easements are accepted and enforced by certain conservation organizations and government agencies. Private, nonprofit groups such as the Audubon Society, The Nature Conservancy, local land trusts, and other local organizations are equipped to receive and enforce conservation easements as are many public agencies such as town conservation commissions, county conservation districts, the state fish and game department, or the state department of parks and recreation.

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