

## Conservation Easement Fact Sheet



Aiken Land Conservancy

### **What is a conservation easement?**

A conservation easement is a method of protecting natural resources and preserving scenic open space and natural lands without placing actual ownership of the land in the hands of a government or private agency. The landowner who donates an easement gives up the right to develop the land now and in the future, but still maintains ownership of the land. The easement gives the development rights to a conservation group, such as the Aiken Land Conservancy, that enforces the terms of the easement and prohibits development.

### **Why do people donate a conservation easement?**

Conservation easements are donated to protect and preserve land from development. There may also be tax advantages to donating an easement.

### **What kinds of land can be protected by a conservation easement?**

Any land that demonstrates a definite conservation purpose can be protected by an easement. This includes woodlands, wetlands, meadows, farmland, endangered species habitat, scenic areas, natural areas, wild and scenic rivers, historic areas, and any other type of land that is basically undeveloped.

### **Does the Aiken Land Conservancy accept all easement offers?**

Easement donations are evaluated on a case by case basis. Each potential easement site is visited by ALC representatives and is researched for its conservation values. The Land Trust's Board of Directors then vote on whether to accept or reject an easement offer.

### **How long does an easement last?**

Easements are generally perpetual. The terms of the easement, therefore, apply to all present and future owners of the land.

### **What are the advantages of donating a conservation easement?**

For people who have a strong desire to conserve their land, an easement can assure them that their land will never be developed, now or in the future. Potential benefits from donated easements may include lower property tax rates on the unimproved land, reduction of federal estate taxes, reduction of federal income taxes and reduced state inheritance tax rates. Because an easement restricts the economic and development uses of the property, the fair market value of the land is reduced. Potential buyers of the land are those who appreciate its conservation values and have no wish to develop it.

### **What are the disadvantages of donating a conservation easement?**

Because an easement restricts the economic and development uses of the property, the fair market value of the land is often reduced. Potential buyers of the land are those who appreciate its conservation values and have no wish to develop it. Easements that do not qualify under federal tax law may be subject to a gift tax.

### **Will an easement grant the public access to my property?**

No, an easement itself will not grant the public access to your land. However, if an easement donor wishes to allow the public access, such access is not prohibited by the easement. Public benefits of an easement are most often derived from scenic views of the land from public roads and waterways.

### **If I donate an easement, do I still own the land?**

Yes, you still own the land. When you donate an easement, you have only given up the development rights.

**Can land under a conservation easement be sold? Can it be inherited?**

Yes, the land can be bought, sold, and inherited just like all other land. However, the easement runs with the land and binds all present and future owners to the terms and restrictions of the easement.

**Can I still live on my land if I donate an easement?**

Yes, you can still live on land on which an easement has been donated. The easement generally allows for additions and modifications to existing structures, construction of accessory and farm structures, logging in accordance with accepted forestry practices, and normal agricultural practices. Reservation of a limited number of potential future home sites in the deed of easement may also be possible, depending on the circumstances.

**What activities does an easement encourage? What activities does it prohibit?**

Conservation easements generally encourage natural, agricultural, and forestry uses of land. Commercial, industrial, and residential development, the dumping of waste materials, erection of billboards, excavation, dredging, and mining activities, except as may be necessary for agricultural and forestry uses of the property, are prohibited by the easement.

**Am I responsible for maintenance of my property if I donate an easement?**

Yes, the landowner is responsible for all aspects of property and building maintenance.

**How much is an easement worth?**

The monetary value of an easement depends upon the individual property and the type of restrictions on the land. In general, the more restrictive the easement, the higher the easement value. To determine the easement value you must have your land appraised at both its fair market value without the easement restrictions and its fair market value with the easement restrictions. The difference between the two appraised values is the easement value. It is this value that can be used for income tax deduction purposes and for determining the state tax credit.

**How do future owners of a property know that an easement exists?**

The easement is executed in the form of a deed. The deed of easement is recorded in the land records office of the county in which the easement is located, and the original deed is kept on file at the Aiken Land Conservancy office. A title search of a property will reveal the existence of an easement.

**Who enforces the terms of an easement?**

The Aiken Land Conservancy is responsible for enforcing the terms of easements donated to the Land Trust. This is accomplished by routine monitoring visits to an easement site to check for compliance with the terms of the deed of easement. If the terms of easement are breached, restoration of the property to its prior condition is required. All present and future landowners must abide by the terms of the easement.

**Is there an annual application deadline for donating an easement?**

The Aiken Land Conservancy accepts requests for easement donations throughout the year. There are no formal application forms required. However, if you wish to complete an easement during a particular calendar year, you should contact the ALC office as soon as possible and notify us that you wish to proceed with an easement, typically with a letter of intent. In general, ALC requires that a letter of intent must be signed by the landowner on or before November 1 and all supporting documentation (baseline study, appraisal, negotiated easement) must be provided to the ALC Board of Directors on or before December 15 for the easement to be considered in a particular calendar year.

For additional information on conservation easements, please contact:

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