

## TAR RIVER LAND CONSERVANCY

### What Are Conservation Easements?

A conservation easement is a type of deed that permits specific types and locations of activities performed on an individual parcel of land. These deeds permanently protect these parcels of land through the use of voluntary, legally binding agreements. A conservation easement “governs the land,” so to speak, so any future owners of the particular parcel of land will be bound to the terms established in the easement.

Working in conjunction with landowners, the Tar River Land Conservancy (TRLC) strives to find restrictions that are fitting for each piece of property’s unique characteristics, and caters to the landowners existing goals. For example, a landowner may wish to conserve only a portion of their land, leaving part of the parcel out of the easement. Another example would be if the landowner wanted to continue practicing timber and wildlife management strategies.

Once in a conservation easement, the land remains in private ownership and can still be sold, given or inherited at any point. An easement allows landowners to permanently protect the natural resources of their land for the future, regardless of whose hands the land may fall.

**The Tar River Land Conservancy acquires these conservation easements through a number of ways. Easements are sometimes donated, giving the donors opportunity for income tax and estate tax benefits. When available financial resources are available, TRLC may purchase the easement from a landowner. This practice is generally referred to as “purchasing development rights,” or “PDR.”**

### Who Is Eligible to Grant an Easement?

Any property owner with conservation values in mind may grant a conservation easement as long as TRLC accepts the parcel. In the case of multiple ownership of one piece of property, all owners must consent. If the property is mortgaged, the owner must have the lender agree to partially subordinate its interest so that the easement cannot be extinguished in the event of foreclosure.

### How Much Land Must Be Included in an Easement?

The amount of land covered by the easement depends on the goals of the landowner as reflected in the purposes of the easement and the natural values of the area. It will also be based upon TRLC’s land protection goals and priorities. The easement restrictions must carry meaningful conservation benefits that are consistent with TRLC’s mission as a charitable organization.

### How Restrictive is a Conservation Easement?

Easements are designed to prevent or limit development and other activities, protecting the natural resources of each specific piece of property.

Normal agricultural and forestry practices are usually permitted and encouraged on conserved lands. The addition of structures necessary for farming and forestry are allowed, such as culverts, bridges, barns, sheds, fences, and dams. Wildlife and habitat management and improvement, such as the addition of ponds, wetlands, or plantings to benefit the wildlife population, is also generally permitted.

In accordance with the landowner’s wishes and the individual characteristics of the property, the prospect of future residential or commercial construction may be completely prohibited – or

limited to a specific site where it will have little or no impact on the natural values of the land. Other restrictions may be applied, which would prohibit mining, excavation, advertising billboards, and dumps.

### **Does an Easement Require Public Access to the Property?**

Unless the landowner specifically requests it in the deed, an easement does not allow the public access to the land. In some cases, where the public has had a history of land use and the area is considered to be a recreational resource, landowners may choose to grant public access. Some landowners will allow the public the rights to access a limited area; in the case of hikers, a clearly defined corridor through the property. The landowner also has the choice of allowing access for specific purposes such as education or hunting. Still, most easements do not permit public access, and if they do, it is a reflection of the specific intent of the landowner/s.

However, the easement does permit TRLC biannual access to the land in order to monitor the use and activities of the land, determining if the conditions and terms of the easement are being upheld. Even for biannual monitoring visits, TRLC still must get clearance to enter your property.

### **How Are Conservation Easements Enforced?**

After accepting a certain easement, TRLC has the duty of maintaining stewardship, - the right and responsibility to defend the terms of the easement against any violations by the landowners. TRLC representatives will visit the property periodically and using written records and photographs document the condition of the property to ensure that the conditions of the easement remain intact.

### **Are There Financial Benefits to Donating a Conservation Easement?**

**Income Taxes:** On August 17, 2006 President Bush expanded the federal tax deductions available to landowners who voluntarily agree to conserve their land between now and the end of 2007. The changes affect charitable donations of conservation agreements made during the period of January 1, 2006 and December 31, 2007. After this trial period Congress will determine whether or not to make the changes permanent, extend the trial period or revert back to previous legislation.

The appraised value of the gift is equal to that of the present fair market value of the piece of property before and after the easement is donated, compensating the landowner for the loss of value on the land. In addition to the federal income tax deductions referenced above, you can also receive a NC State Income Tax Credit with the donation of a conservation easement.

**Estate Taxes:** An easement can serve as a useful estate-planning tool, ensuring that land remains under the control of one's family for future generations by offsetting inheritance taxes. When land is inherited, the state and federal taxes can overwhelm estate heirs resulting in the undesired need to sell off portions of the property for tax reconciliation. Conservation easements reduce the value of the property therefore reducing the inheritance taxes, as well as provide other substantial deductions. Additional estate tax benefits may be available.

**Gift Taxes:** Land given as gift to a family member can fall subject to gift taxes if the value of the land exceeds the maximum tax-free amount. By lowering the total value of the land through the use of an easement, the landowner may be exempt from the tax or have the ability of giving more land without paying the gift tax.

**Property Taxes:** Most property subject to a conservation easement is eligible for current use value property taxation; landowners whose property is already taxed at that rate will generally not see a further reduction in their property taxes.

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