



Annapolis Valley Farmland Trust

CONSERVATION EASEMENTS

How can I protect my land for farming or farming and other purposes?

A conservation easement (“CE”) is one of the most effective ways to protect land for farming or farming and other purposes permitted by the Community Easements Act (“Act”). A CE allows you retain ownership of the land, so you can continue to use the land for agriculture or agriculture and other purposes permitted by the Act, and lease the land, mortgage the land, sell the land or pass the land on to your children or other heirs.

In addition to agriculture, the Act authorizes a CE on any one or more of the following types of land:

- (a) natural, scenic or open space land;
- (b) archaeological, paleontological, historic or cultural values land;
- (c) working-forest land; and
- (d) restored or enhanced wetlands.

What is a conservation easement?

A CE is a real estate title restriction that landowners may voluntarily place on their property to keep land available for agriculture or agriculture and other purposes permitted by the Act. Any landowner may give a CE to a public agency or qualified conservation organization. Annapolis Valley Farmland Trust (“AVFLT”) is an organization qualified to accept donations of CEs. CEs can be tailored to each property and to the needs and conservation goals of each landowner. CEs may permit agricultural activities and structures (e.g., barns and fences) but limit uses that are inconsistent with commercial agriculture (e.g., non-farm dwellings) and may protect adjacent land for the purposes authorized in the Act.

Why Grant a Conservation Easement?

Even if your land is zoned for agriculture or forestry, the zoning classification and the uses restricted by zoning change over time. A CE remains in place regardless of changes in zoning. By granting a CE, you can be assured that the use of your property will be limited to agriculture, or agriculture in part and in part for other purposes authorized by the Act. The CE remains in effect indefinitely, no matter who the future owners are. Donating an CE may provide income and property tax benefits for you and your family. You can also use an easement in combination with selling or donating land. This gives you control over use of the land, even after you no longer own it. If for example, you have a family farm and you want to make sure that your heirs do not turn your farm into a suburban residential subdivision, a CE will accommodate your wishes.

How Restrictive is a Conservation Easement?

Generally, restrictions placed on the property by an agricultural CE are intended to ensure that at least the primary use of part of the property remains agricultural; and that any other part of the property on which the easement is placed is devoted to another purpose permitted by the Act. Although easements must protect the land's agricultural or agriculture and other values contemplated by the Act, there is flexibility in the content of the CEs. A CE can typically be tailored to meet each landowner's financial and personal needs. CEs permanently prohibit or limit some uses of the land, but they can allow appropriate development and commercial uses of the agricultural land. For example, a CE may allow building a new home and other buildings, as long as the activities do not significantly affect the use of the land for agriculture. You may continue to use and enjoy the land the same way as you always have. An easement can apply to an entire property, or a portion of it, for example, apply to all crop land but exclude all forest land or a residential building area. In addition, the extent of the restrictions can vary considerably from one area of the land to another. For example, the only restriction on the residential area might be that all or part of the residential area cannot be subdivided from the agricultural land.

What is Involved in Donating an Easement?

If you think you may be interested in donating a CE, the first step is to contact an organization or agency that is qualified and may be willing to accept the CE. AVFLT is an organization that is qualified to accept CEs. If you contact AVFLT, a representative will be in touch with you to try to answer your questions, provide additional background information and discuss the next steps if you are interested in proceeding further.

Are there Tax Consequences or Benefits from Donating an Easement?

If you do want to proceed with an ACE, it is recommended that you obtain your own legal and tax advice well before signing an ACE agreement.

Who Can Grant an Easement? To Whom?

Any owner of property with agricultural value may grant a CE to the AVFLT. If the property belongs to more than one person, all owners must sign the CE agreement. If the property is mortgaged, the owner must obtain an agreement with the lender to ensure that the easement is not affected by the mortgage.

What is a land trust?

AVFLT is a land trust. Land trusts are private conservation organizations that protect natural resources by acquiring or helping other organizations to acquire land or conservation easements. Some land trusts protect farm and ranch land for agriculture. Some protect land for other purposes. Most land trusts accept donations of land or easements but some use private and public funds to compensate landowners.

For more information visit <https://avflt.ca> or contact Mark Tipperman (902) 542-0555 or Mark Tipperman@crelawyer.net