

Richland County Conservation Commission Conservation Easements Fact Sheet

As Richland County continues to grow and become more developed, we are faced with a choice of how best to protect our treasured open spaces and still meet our timber, agricultural, recreational, and economic needs. Conservation easements preserve and protect our quality of life while maintaining the tradition of local control and private land ownership.

What is a Conservation Easement?

A conservation easement is a legally binding agreement between a landowner and a qualified land trust or public agency such as Richland County. It permanently restricts the type and amount of development on a property to protect conservation values significant to the public, i.e. farm and forest land, wildlife habitat, stream buffers, and scenic open space.

Advantages of a Conservation Easement

- The landowner retains title to the property and may continue to live on the property, sell or pass it on to heirs.
- It is flexible and tailored to the individual property and the landowner's wishes for the land.
- State and federal income tax benefits are available to the owner and an easement can lower the taxable value of land in an estate.
- It is permanent, remaining in force when the land changes ownership. The land trust or public agency ensures the restrictions are followed.

How Conservation Easements Work

Land ownership has many associated rights such as the right to subdivide, harvest timber, build structures, and restrict access. When you grant a conservation easement, you permanently give up specific development rights which are detailed in the easement document. Most easements allow landowners to continue traditional uses of the land such as timbering and agricultural production. However, future land uses are greatly limited by prohibiting construction of buildings, restricting subdivision to only a few family home sites and land altering activities in significant natural areas. Hence the land value is reduced. Public access is only required when an easement is given for recreational or educational purposes. The responsibilities of the landowner and the land trust or public agency holding the easement are itemized in the agreement.

Because the landowner has "donated" specific property rights, the conservation easement **may** qualify as a tax-deductible charitable gift. To determine the value of the gift, an appraisal is conducted to establish the fair market value of the property prior to the easement and the fair market value with the easement restrictions. The difference is the easement value. The value is greatest for the most restrictive easements and those facing strong development pressures. Another option offered by Richland County is the "purchase of development rights" whereby a landowner

voluntarily sells his/her rights to develop a parcel of land while retaining ownership. Whichever method is used, a personal tax attorney or financial planner should always be consulted.¹

Tax Benefits to the Landowner

Federal Income Tax Deduction: The donation of a conservation easement must meet certain requirements of the federal tax code to qualify as a tax-deductible gift. Specifically, easements must be in perpetuity, donated to a qualified organization or public agency and must be donated exclusively for at least one of the conservation purposes, defined as:

- The protection of relatively natural habitat for fish, wildlife, or plants, or similar ecosystems
- The preservation of open space (including farmland and forest land) where such preservation will yield a significant public benefit and is either 1) for the scenic enjoyment of the general public, or 2) pursuant to a clearly delineated federal, state or local governmental conservation policy.
- The preservation of a historically important land area or certified historic structure.
- The preservation of land areas for outdoor recreation by, or the education of, the general public

The income tax deduction is reserved for the protection of conservation resources providing significant public benefit. In return for giving up development rights, federal tax law provides for an income tax deduction of the value of the easement up to 50% of the landowner's adjusted gross income. If the value of the easement exceeds 50%, it can be carried forward for up to fifteen additional years. Qualifying farmers and ranchers may deduct up to 100% of their adjusted gross income.

State Income Tax Credit: The South Carolina Conservation Incentives Act provides an additional state tax credit equal to 25% of the federal deduction. The credit is capped at \$250 per acre and an annual cap of \$52,500. Importantly, the tax credit is transferable allowing the donor to use or sell the credit. South Carolina taxpayers may apply for both the federal deduction and the state credit.

Estate Tax: The estate tax burden for heirs is reduced when the property has a conservation easement on it at the time of the landowner's death that reduces the land value by 30%. Heirs are able to reduce the estate's value by an additional 40% before the estate taxes are calculated due to the lowered property value.

Property Tax: Property with a conservation easement is assessed as agricultural property if it would have otherwise qualified as agricultural property. Landowners not receiving an agricultural assessment may see a reduction in their local property tax.

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¹ Richland County makes no guarantee regarding the potential tax benefits to the grantor for an individual property resulting from granting a conservation easement.