



## What You Need To Know About The Land Trust of Virginia and Conservation Easements

*"We do not inherit the land, we borrow it from our children."  
~ Native American Saying ~*

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### What Does The Land Trust of Virginia Do?

The Land Trust of Virginia (LTV) exists to help you make the greatest contribution you can make to our state, our children, and our future: **we work with you to protect Virginia's farms, forests, and history.**

We assist landowners by:

- Providing information on land conservation to those interested in putting their land into a conservation easement;
- Assessing the conservation values of each property being proposed for a conservation easement;
- Accepting donations of conservation easements, by working closely with each landowner to ensure that their property interests and conservation values are protected by an easement tailored to their specific property; and
- Monitoring conservation easements through perpetual stewardship, to ensure that each landowner's intentions are carried out.

The Land Trust of Virginia has helped scores of landowners put thousands of acres of Virginia's beautiful and historic countryside into conservation easements. We can help you, too.

### What Is a Conservation Easement?

A conservation easement is a permanent restriction on your land that protects its conservation values and limits development, now and forever.

### What Are Its Benefits?

While preserving your land, you can retain ownership of it, sell it, or pass it on to your heirs with the confidence that no matter who owns the

*Your Legacy:*

*It doesn't*

*have to*

*disappear*





land, your intentions and the easement terms will be enforced in perpetuity. Property owners who put their land into a conservation easement also may qualify for financial benefits, which may include:

- State income tax benefits, including tax credits (which in some cases may be sold)
- Federal income tax deductions
- State and federal estate tax benefits
- Lower local property taxes

You should seek advice from your own tax advisor regarding the benefits for which you may qualify. LTV does not provide advice regarding tax benefits.

## Does My Land Qualify?

Before a property can be put into conservation easement, you and the Land Trust of Virginia must determine whether the property has important conservation values that make it eligible for easement status. If you have a piece of land that you would like to conserve, ask yourself the following types of questions:

- \_\_\_ Will preserving my land maintain a setting of scenic rural open space (including farmland and forest land) that the public can see?
- \_\_\_ Will preserving my land protect important natural resource values, such as wildlife habitat, streams, ponds, or wetlands?
- \_\_\_ Will preserving my land preserve a site of historical importance?

If your answer is “**yes**” to one or more of these questions, your land may meet our criteria for accepting conservation easements. We will be happy to help you evaluate the potential of your property to qualify under LTV’s conservation criteria.





## How Do I Put My Land In Easement And What Will It Cost?

Here's a short sketch of the typical easement process.<sup>1</sup> We also can send you our Conservation Easement Consent Form and a Letter of Intent if you decide to go forward. Further information is available on our website at [www.landtrustva.org](http://www.landtrustva.org).

### *Deciding to proceed*

After you review the information that LTV has provided, consult with your family and/or advisors, especially your tax counsel, and decide whether you would like to pursue a conservation easement on your property. If you are ready, sign the Letter of Intent provided by LTV indicating that you wish to begin the process, and send it to LTV. As that letter indicates, until the final conservation easement is executed and recorded in the land records, you can decide at any stage not to go further.

### *The Costs*

LTV requires payment of a \$2,500 processing fee to cover its expenses in working with you to evaluate and prepare a conservation easement. You also should expect to incur costs associated with an appraisal of the property and preparation of a Baseline Documentation Report, as well as any fees charged by your attorney. Finally, LTV must ensure that it has sufficient funds in an endowment to pay for the perpetual monitoring of your easement. LTV staff can provide you with a more detailed analysis of these expenses. You should ask your tax advisor for assistance in weighing these costs against any potential financial and conservation benefits.

### *Retaining professional advisors*

You will need to retain a knowledgeable attorney and an appraiser familiar with conservation easements and the relevant federal and state tax laws. LTV can provide you with a list of appraisers who have specific expertise and experience in appraising easements. If you plan to sell any state tax credits that you may be eligible for, you may need a knowledgeable tax credit broker. You also will have to retain a qualified person to prepare a Baseline Documentation Report that documents the current conditions on your property. LTV can prepare the Baseline Documentation Report for a fee, or can give you a list of contractors who can prepare a report that meets LTV's standards.

<sup>1</sup> While these steps show the typical procedure, there are some situations where the order may differ. The process may take anywhere from a few months to more than a year to complete, so it is important to start early and meet the various deadlines involved in the process.





### *Reaching a preliminary agreement*

First, LTV staff will meet with you, view your property, and evaluate with you whether your property has conservation values that meet LTV's criteria. Next, you and LTV staff reach a preliminary agreement on the terms of an easement to protect those values and any uses of the property that you wish to retain.

### *Preparing the necessary documentation*

After this preliminary agreement is reached, LTV staff will prepare a draft easement deed for you and your advisors to review. It is your responsibility to have your advisors prepare or arrange for preparation of:

- The Baseline Documentation Report (unless LTV prepares it for you)
- An appraisal of the value of the conservation easement
- A survey (in appropriate cases)
- A title policy or report (in appropriate cases)
- A loan subordination agreement, if there is a loan on the property.

### *Approval by the LTV Easement Committee and Board of Directors*

After the LTV staff works with you to define the terms of the proposed easement, LTV's Easement Committee must review and submit a recommendation to the LTV Board of Directors regarding your proposed easement, and LTV's Board of Directors must approve any final agreement. All required documentation needs to be submitted at least two weeks in advance of the Easement Committee meeting in which your easement is reviewed. LTV staff can provide you with the dates of upcoming meetings. The Easement Committee may recommend that the proposed easement be accepted, rejected, or accepted with changes. The Board of Directors, in turn, may accept the easement, accept it with changes, or reject it, perhaps with suggestions for changes.

### *Completing the final easement and the Baseline Documentation Report*

The final easement is drawn up by LTV staff, including any board-approved changes, and submitted to you for final review and approval. You must ensure completion and delivery to the LTV Staff of a Baseline Documentation Report that meets LTV standards. LTV staff also will notify you of the amount that LTV estimates will be needed to endow the perpetual care and monitoring of your easement. This amount normally must be received by LTV before an LTV officer can sign the easement for recording.

### *Executing the easement*

You sign the completed easement before a notary public, have it signed by any lender of record to subordinate the lender to the conservation easement, and send it to LTV for signature by an LTV officer. LTV staff then will record the





easement with the appropriate county office. LTV will not sign your easement unless LTV has:

- a signed final easement that includes language agreed upon by the landowner and the LTV Board,
- a Baseline Documentation Report that meets LTV standards,
- a preliminary appraisal valuing the conservation easement,
- adequate provision for a stewardship endowment, and
- other required documentation as necessary, such as a title search, survey, or statement of title insurance for the benefit of LTV.

#### *Obtaining Tax Benefits*

While LTV takes no responsibility for tax matters and is not involved with this step, you will need to present LTV with a copy of the preliminary appraisal before the Land Trust signs the easement if you wish to have LTV subsequently sign the IRS Form 8283 (which is necessary for a federal income tax deduction). You must also submit the final full appraisal to LTV staff one week before you wish to have LTV sign the IRS Form 8283. LTV will not knowingly participate in projects where it has significant questions about the donor's conformance with tax laws.

#### *Stewardship of the Easement*

When LTV accepts your easement, it is taking on the important responsibility of protecting the conservation values on your property forever. LTV's Stewardship Coordinator will conduct annual visits to the property to monitor the easement and ensure that the terms of the easement are being met.

*For more information, call the Land Trust of Virginia office at (540) 687-8441 or visit our website, [www.landtrustva.org](http://www.landtrustva.org). Working together, we can protect Virginia's natural beauty and historic legacy forever!*

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