

CONSERVATION EASEMENTS

A guide



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WELCOME

Whether you are considering conserving your land, or have purchased land that has previously been conserved, the Columbia Land Conservancy (CLC) is here to help.

This guide is designed to assist you with navigating the processes and documents associated with owning protected land. Our staff are also available to help you and to answer any questions you might have.

The Columbia Land Conservancy brings people together to conserve, appreciate, and enjoy land. For nearly 40 years, CLC has collaborated with individuals, communities, and partners to ensure Columbia County is a beautiful, livable, resilient place.

As a land trust accredited by the Land Trust Alliance, we regularly complete an independent third-party accreditation process, and have been identified as a land trust that meets high standards for quality and permanence of land conservation, following national standards and meeting current requirements.

CLC is a nonprofit organization that relies on the support of individuals like you - please consider making a donation.



GUIDING DOCUMENTS

DEED OF CONSERVATION EASEMENT

A conservation easement is a legal agreement voluntarily entered into by a landowner and an entity such as CLC. The agreement permanently restricts the use and development of land to ensure the continuous health of the land's natural resources and habitats for future generations. Once established, the easement will remain associated with the title to the property, meaning it is legally binding on all future landowners.

Each conservation easement is tailored to preserve the conservation values of an individual property and to incorporate the original landowner's goals. Landowners who convey conservation easements retain ownership of the land and the right to use and enjoy it (which can include commercial operations like farming and forestry) while CLC holds a responsibility to ensure the terms of the easement are followed, and that the conservation values endure into the future.

If you are interested in having a conservation easement on your land, please reach out to our staff. We can talk with you in more detail about the process of doing so, the associated costs, and to review potential financial benefits.



BASILINE DOCUMENTATION REPORT

A baseline documentation report is prepared for each property before it is placed under conservation easement. Each baseline report includes a copy of the conservation easement, site-specific maps, written descriptions, and photographs that detail the conservation values being protected as well as the conditions of the property at the time the easement was conveyed.

The baseline documentation serves as the basis for future monitoring and enforcement of the easement. As owners exercise reserved rights such as construction allowances, or as things change on the property, CLC will document these changes to establish a continual record of changes over time.

As an accredited land trust, CLC is required to have a baseline for every easement. The baseline is also required by the IRS for a landowner granting the easement if they are seeking a tax deduction for the creation of the easement.

Baselines are signed by both the landowner granting the easement and by a CLC staff member whenever an easement is conveyed. We suggest landowners keep their baseline copy easily accessible so that they can review it along with the easement document whenever planning a project or activating a reserved right.



RESERVED RIGHTS

Reserved rights are those uses still permitted under a conservation easement. Every CLC easement is unique as each easement is tailored to fit the individual properties being protected. Terms are finalized to when the conservation easement is executed.

Some reserved rights require notifying CLC before any action is taken. For example, in many cases, prior notice and/or consent by CLC is required before building structures or undertaking certain land management activities. We encourage all conservation easement landowners to contact us before beginning any major projects on protected property.

Our stewardship staff are available to help landowners review the specific terms of their easements to better understand what is and is not permitted under their property's easement. CLC staff will promptly review the plans and if for some reason they are not in compliance with the easement we will work with landowners to refine them. If the law requires a permit or notification (for example, a building permit), landowners will need to complete those steps with the appropriate agencies or entities as well.



CHANGES IN OWNERSHIP

All of CLC's conservation easements require landowners to notify us regarding any changes in ownership. We also ask landowners to work with their realtors or other advisors to notify potential buyers and lessees about the existence of the conservation easement on any lands being sold.

As with any privately-owned property, land subject to a conservation easement can be sold. With the exception of those easements that include an affordability covenant, land protected with a conservation easement is not restricted from being sold to the highest bidder.

Prospective or new landowners of protected property will need to fully understand the nature of any conservation easement restrictions and obligations on lands they own or are contemplating purchasing.

We are available and glad to speak with prospective buyers or realtors regarding conservation easement terms on the seller's behalf.

MONITORING

CLC is legally required to monitor easements annually. Monitoring is a critical tool we use to ensure the continued protection of the natural resources and other conservation values of a property, and to ensure we are meeting our obligations as holders of the conservation easement. Regular monitoring establishes a record of stewardship, enables us to maintain a productive and mutually beneficial relationship with landowners, serves as an informational resource, and helps our staff spot potential problems early on.

CLC monitors its protected properties every year by plane and every other year in person. Prior to any site visit, landowners will receive communications notifying them that someone will be coming out to their property and inviting them to join the visit.

An annual mailing from CLC also includes a survey asking a series of questions about protected properties, such as if there have been any changes in ownership or whether landowners have plans to exercise any reserved rights.

CLC strives to serve as a general conservation resource to owners of protected land. Our stewardship staff are available to review plans and discuss any related conservation easement provisions. This collaborative relationship is key to achieving long term conservation goals in our community. We look forward to partnering with you.



ENFORCEMENT

As holders of the easement, we are obligated to also uphold the terms that protect the conservation resources. When violations occur, we strive to work with landowners to develop a reasonable plan to resolve the issue as soon as possible. Litigation is necessary for violations when a remedy cannot be agreed upon.

Should our staff encounter a potential violation of the easement terms, we will contact landowners immediately to discuss our concern. Often, we will want to schedule a visit to the property to assess and discuss the situation. Each easement is unique, and violations can take many forms. All owners of protected land should read their easement, paying close attention to what is permitted or prohibited on your property, and contact our staff with any questions.





WHEN TO CALL CLC

The conservation easement document will detail the permitted and prohibited activities and uses on protected property. Some permitted activities require our approval before beginning work.

If owners of protected land are unsure if an activity is permitted, they are encouraged to be in touch with us. When in doubt, call!

The following are some examples of activities in which landowners would likely need to contact us:

- Before constructing improvements, such as residential, agricultural, or other structures;
- Before installing renewable energy, such as solar panels or wind turbines;
- Before large scale landscape decisions that could impact habitat or resource management, such as a timber harvest, stream restoration, or invasive species removal; and
- Before selling the property.



Our commitment to protecting properties does not end when an easement is recorded. Perhaps the most important obligation we have regarding our conservation easements is developing good relationships and open communication with you.

By working together, CLC and owners of protected land can mutually ensure the long-term protection of our important natural resources, habitats and biological communities for future generations.

Please contact us if you have any questions about managing your property. If we don't know the answer to your question, we can help you find the person or entity that does. CLC staff are always available to answer any questions or provide resources to help landowners accomplish their land management goals.



TAX BENEFITS

CHARITABLE DEDUCTION

Please consult your tax and financial advisors for more information on the potential charitable contribution. The donation or partial donation of a conservation easement may be treated as a tax-deductible charitable contribution for income tax purposes, with generous carry-forward provisions to allow donors to benefit fully over time from the value of the donation. However, a 2018 rulemaking by the Internal Revenue Service has for the time being created uncertainty about the availability or the amount of a charitable deduction for New York conservation easement donors.

NEW YORK STATE CONSERVATION EASEMENT TAX CREDIT

In 2006 New York State enacted a conservation easement tax credit, under which landowners whose property is restricted by a donated or partially donated permanent conservation easement are eligible to receive an annual rebate from New York State in the amount of 25% of the property taxes paid on the land, up to \$5,000 per year.

To apply for the credit, landowners need to fill out NYS Form IT242, which can be found online or provided by our staff. A conservation easement identifier is required, which our stewardship staff can provide as well.



GRANT FUNDING

Sometimes grant funding is available to partially or fully purchased development rights on properties. Some of these conservation easements include a farmland affordability provision that can provide additional funds to ensure that when protected farmland is sold, it will be sold to farmers at agricultural value.

We occasionally have access to federal funds as well for purchase of farmland conservation easements, and more recently have been awarded some limited funds associated with the purchase of development rights on wooded properties.

Please reach out to our staff if you are interested in learning more about conservation easement grant opportunities.

OTHER ASSISTANCE PROGRAMS

There are other federal and state programs that may be available to help you manage your property and provide you with money or tax benefits. Our staff can help direct you to the program that might be the best fit for your goals.

- Natural Resource Conservation Services (NRCS) offers many programs such as the Environmental Quality Incentives Program (EQIP) and the Conservation Stewardship Program (CSP) that offer financial initiatives to actively manage properties - for example, creating pollinator habitat, transitioning to organic farming, practicing forestry, and creating grassland or shrubland.
- The 480-A Forest Tax Law is a long-term forest management program offered through the NYS Department of Environmental Conservation which offers a reduction on property taxes for qualified forest land that is managed for forest crops.
- The Family Forest Carbon Program can assist forest owners interested in improving the health and value of their land.
- Agricultural assessments can provide property tax relief for lands being actively used for farming. Contact your local assessor for more information and details about eligibility.

