



*ELCR advances the conservation of
land for horse-related activity.*

Conservation Easements:

What Are They? How Can Horse Farm Owners Benefit From Their Use?

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Conservation easements have been utilized as a primary tool for land protection in the United States for many years. Federal, state and estate tax incentives as well as personal desire to restrict wide-scale development, continues to increase such protection of land and landscapes, benefitting wildlife, recreationists, farmers and equine related industries. Open space, forests and farm land are critical lands for equine owners and enthusiasts, whether it be for hay production, or raising, training, competing, or recreating with horses. Conservation easements with equine friendly language are an important tool for horsemen to protect these vital spaces for horse-related activity.

What is a Conservation Easement?

A conservation easement is a legal agreement between the landowner (grantor) and a non-profit conservation organization (grantee) which seeks to perpetually protect the property from development while retaining rights and activities conducive to the property's current uses and landowner's desires. Conservation easements (also known as conservation agreements) can also provide potential tax benefits to the land owner based on the protection of significant natural resources on the property. Significant natural resources are also referred to as the Conservation Values within the IRS Code; the governing legislation concerning donations of real property and conservation easements. Conservation Values are described as:

1. The preservation of land areas for outdoor recreation by, or the education of the general public.
2. The protection of relatively natural wildlife habitat.
3. The preservation of farmland, forests or other open space where such preservation will yield significant public benefit.
4. The preservation of farmland, forests or other open space where such preservation is pursuant to a clearly delineated federal, state, or local conservation policy that will yield significant public benefit.
5. The preservation of historically important lands.

Each property, and its Conservation Values, is unique; therefore each conservation easement is unique. The landowner does not relinquish ownership of the property encumbered by an easement. Rather he/she gives up certain rights, primarily the right to subdivide and/or develop the property. The right to continue agricultural production, timber harvesting, farming or equine related activity is not impaired. Such activity is undertaken in accordance with the protection of the property's natural resources and wildlife habitat. Additionally, the landowner is not obligated to provide access to the general public. It is essential for horse farm owners to understand that the tax benefits are dependent upon the protection of these Conservation Values; thus the conservation easement is written in such a way as to protect them *as well as* permit continued equestrian use.

Private Property Rights

First and foremost, the landowner does not convey ownership (also known as fee title) to the property to the holder of the conservation easement. The landowner retains all rights in and to the property except for those that he/she wishes to give up. For example, all of the rights associated with ownership of land can be viewed as a bundle of sticks. Each stick represents a right; the right to develop the land, the right to farm, the right to hunt, etc. The landowner will choose which rights to keep and which to remove from the bundle. Usually, the only right that is expected to be relinquished is the right to develop the property. All other rights are optional depending on the landowner's future intentions and the natural resources, Conservation Values, to be protected. A land owner can always seek to retain economic benefit from services of the property such as rent for apartments, income from selling timber or leasing the land to fox hunters or trail riders.

The land owner can also retain the option to rent or sell all or some of the rights associated with the property. Land owners can retain the right to minimally develop a property, for a residential subdivision or commercial enterprise, or conversely sell trade or entirely give up that right. Each conservation easement is written to encompass the desires of the land owner, the future intent of the property and the perpetual protection of the Conservation Values. In all cases, property valuations or appraisals are the process used to determine

the financial value of the property in the marketplace. These valuations will assist the land owner, along with his/her counsel, as to which rights are to be retained, which given up and consequently what tax deductions may be garnered.

What Is a Land Trust?

There are many national and local 501(c)(3) conservation organizations, also known as land trusts, throughout the United States qualified to hold conservation easements. A land trust is usually a local or regional not-for-profit organization, governed by a volunteer board of directors, established for the protection of land, landscapes, wildlife habitat or other natural resources. Land trusts with an agricultural emphasis are often the most compatible organizations for the interests of equestrians. Other qualified organizations include federal, state and local government units. Typical government units prepared to accept conservation easements are departments of natural resources and town/county park districts.

Qualified organizations can provide essential guidance to land owners regarding the documentation necessary to a conservation easement transaction. For example, it is the value of the development rights associated with a piece of property that, if given up, may qualify as a charitable donation and subsequent tax deduction. The value of the development rights are determined through the process of a qualified appraisal which is conducted within 60 days of the signing of the conservation easement. It is important to note that such a transaction is legal in nature and thus the partnership between the land owner and qualified organization is essential to ensure protection and use of the land is documented properly.

Once all documentation has been completed and the parties agree on the language of the conservation easement, the qualified organization is required to monitor the conserved property annually, with land owner permission, to ensure that the terms and conditions of the conservation easement have not been violated.

Inclusion of Equine Friendly Language in an Easement

Conservation easements are designed to protect significant natural resource values, but they are also tools that can be compatible with the interests of equestrians. This can be accomplished by incorporating equestrian or equine friendly language in the conservation easement document. This is accomplished with input from the land owner, his/her legal representative and the qualified organization.

Reserved equestrian rights may include the use of farm for keeping of horses, grazing of horses, hunting with hounds on foot or horseback, trail riding and maintaining equestrian trails, venue for commercial equestrian activity including horse shows and competitions,

horseback riding instruction, raising, training, boarding and the sale of horses. Any and all of these uses will be acceptable so long as no harm comes to any of the stated Conservation Values found and protected on the property.

Is An Easement Appropriate for You and Your Property?

The best way to determine if a conservation easement is right for your particular circumstances is to do your homework. Conservation easements are complex tools with intricate concepts and provisions. It is essential for interested parties to become familiar with conservation easements before commencing an easement negotiation. In addition to ELCR, there are a number of resources available including the Land Trust Alliance (LTA) and its website www.lta.org. Valuable information can be found at the links entitled "The Learning Center," "Conserve Your Land" and "Frequently Asked Questions." Your local land trust is also an invaluable resource. You can find your local land trust at LTA's website in the link entitled "Land Trust Locator." There are two recommended publications including *The Conservation Easement Handbook, Second Edition* available from LTA and ELCR's *Guide to Equestrian Friendly Conservation Easements* available at http://www.elcr.org/index_pubs_cart.php.

A conservation easement is a viable alternative to protecting land, landscapes, wildlife and natural resources, while not inhibiting the economic productivity of the property. It provides a vehicle through which the natural integrity of the land can be protected in perpetuity; while at the same time enhancing its recreational and economic value for all equine related uses and "horsey" generations to come. All horse farm owners should be aware of conservation easements. Exploration of such easements and the associated advantages can yield significant personal and public benefit not the least of which is the protection of lands for our horses' health and well being as well as the continued vitality of the equestrian community.