



Farmland Conservation

Overview

This document is intended to help landowners understand the process that makes it possible to sell a conservation easement, sometimes called “development rights,” on a farm. This is a simple overview of a competitive process that starts with a phone call to the Vermont Land Trust (VLT) about your specific farm and situation. The role of VLT is to help with the application process, answer questions, facilitate the steps, and help funders identify the best farm conservation candidates.

The Conservation Easement: A Legal Tool

We conserve farms with a legal tool called a conservation easement. An easement is recorded in the local land records, just like a deed. It permanently protects the land from development and also contains restrictions. The landowner continues to own and manage the land and can pass it along to a family member or sell it. The allowed and prohibited uses are clearly spelled out in the easement.

Generally, uses of the land important to farming are encouraged and those that adversely affect the use of the land for agriculture, like subdivisions and mining, are prohibited.

Because conservation easements are forever, it is very important that landowners understand and agree to the permitted and prohibited uses of the land. Farm easements vary somewhat to accommodate special characteristics of each farm while at the same time carefully protecting the agricultural resource.

NRCS funding requires a farm conservation plan that protects highly erodible soil and enhances water quality. In addition, all farming practices must be in compliance with state and federal accepted agricultural practices. For a complete list of permitted and restricted uses in standard easements, contact us to request “Operating Farm Easements: Guide to the Legal Document.”

Reasons Why Farmers Conserve Land

- Protect land/farm for future generations
- Transfer the farm to a family member
- Reduce long-term debt
- Expand or modernize farm operations
- Provide for retirement
- Facilitate selling the farm to a non-family member

Almost all of our farm conservation easements include an affordability provision called an Option to Purchase at Agricultural Value, which gives the holders of the easement the right to purchase the farm at its agricultural value if the farm is not sold to a farmer or family member. The goal of the provision is to make sure that farmland remains in agricultural use and affordable to future farmers. The agricultural value is set by a formula or appraisal at the time of the sale.

Farm Selection

There are minimum criteria for all applications. The farm must be a viable operation or have a sound plan for getting into operation. Farm parcels that are additions to an already conserved farm, as well as high-quality bare land parcels without farm structures, are also eligible. In addition, conservation of the farm must comply with town and regional plans.

If your farm meets these minimum criteria, the first step is to meet with VLT staff to discuss the process more thoroughly and complete a pre-application. This pre-application summarizes the land's resources, the farm operation, and includes maps and photographs. VLT staff will assemble all necessary materials.

The Vermont Housing and Conservation Board (VHCB) Agricultural Advisory Committee—a group that includes farmers and agricultural experts—meets twice a year to review pre-applications.

If approved, the farm project moves on to the appraisal stage. Applications not approved the first time may be resubmitted. However, if the application is denied twice in a row, 12 months must elapse before an application can be resubmitted.

Selection Priorities

All types of farms can receive funding for the sale of a conservation easement—from small, thriving vegetable operations close to town to big dairies surrounded by other farms. Regardless of the type of farm, the most important question is: “How likely is this farmland to stay in production into the future?” The answer to this question of long-term viability depends on four criteria listed in order of priority:

1. Land resource: Prime or statewide-significant agricultural soils (using NRCS soil values); farm topography and field access; potential for diversified agricultural uses.

Enhancing Applications

The Vermont Land Trust encourages projects that contribute to the diversification of Vermont agriculture, exemplify innovative management, and are owner-operated or plan to be owner-operated. Applications increase in strength when:

- there is a significant local financial contribution to the project;
- an owner is willing to sell the easement for less than the appraised value;
- there are simultaneous donations of conservation easements by owners of important nearby lands;
- if the owner offers trail, canoe, swimming hole, and other access for public recreation;
- if the land includes unique wildlife habitat, outstanding historic structures, or archeological sites.

1. Location: Farms located in a farming community. If the farm is under significant threat of conversion to non-farm use, and if that conversion would be detrimental to other farms in the area, it is given special consideration.
2. Farm infrastructure: Buildings and equipment in good condition and suitable to the existing or proposed farm operation.
3. Management: Sound resource-management practices appropriate to the farm are in place, including practices that build the long-term productivity of the farm's natural resources.

Because every farm and farm family is different, we encourage you to contact us to talk about conserving your farm even if these basic criteria do not fit your farm perfectly.

Determining the Easement's Value

Once the pre-application is approved, the next step is to determine—with VLT staff and funders—what will be included or excluded from the proposed easement, along with any special features or conditions. These special features/conditions may include the option to build farm-labor housing, create public access on the property, or protect a natural area.

VHCB and other funding sources place per-acre and per-project limitations on what they will pay for easements regardless of the appraised value.

Some projects that have large acreage or are considered “agricultural resources of outstanding statewide significance” may be funded even though they exceed the funding limits. Sometimes VLT can find other funding sources to assist in purchasing easements that exceed these limits.

Once the acreage and conditions of the easement are agreed upon, the value of the conservation easement must be determined with an independent, professional appraisal. The landowner pays half the appraisal fee.

The appraisal value primarily relies on comparable sales of similar farms to establish two figures: the value of the farm with no easement on it (the fair market value), and the farm's value with the conservation easement (restricted value). The difference between these two values is the value of the conservation easement.

Example Conservation Easement Valuation

Suppose the Smith Farm has an unrestricted market value of \$500,000.

However, with a conservation easement limiting its use, it is independently appraised at \$300,000.

The difference, \$200,000, is the value of the conservation easement.

Final Application, Funding, and Closing

Upon receipt of the appraisal, the landowner and VLT evaluate the conservation easement value. If the landowner accepts the appraisal and decides to sign a sales contract with VLT to sell a conservation easement, VLT submits the final grant application to a funding organization. The funding organization makes the final selection of farms based primarily on the quality of the agricultural resource, as described, and the amount of money available for farmland conservation that year. Once approved, the legal documents are drawn up and the sale of the conservation easement is scheduled for closing.

Consider Carefully

We encourage landowners to take the time to carefully consider this important family and business decision.

During the application process and definitely before making a final decision, all landowners should consult with their attorney, tax advisor, and farm lender. The sale of a conservation easement: often involves income, capital gains and estate tax issues; impacts existing or planned farm financing; raises farm business planning issues; and/or involves substantial legal issues.

Funding

Each year since 1987, the Vermont State Legislature has funded farmland conservation and affordable housing through the Vermont Housing and Conservation Board. This support shows the state's ongoing commitment to ensuring that Vermont will always have land available for farming. These funds are usually matched by the USDA Natural Resources Conservation Service. Private foundations, individual contributors, town conservation funds and federal programs also generously support farmland conservation.

How Long Does it Take?

Projects may take 18 months or longer to complete.

1. Talk or visit with VLT staff.
2. Submit pre-application.
3. Pre-application approval. (4 to 6 months)
4. Appraisal. (up to 6 months)
5. Sign contract and submit final application.
6. Final approval and closing. (up to 6 months)

Common Misconceptions about Conservation Easements

VLT owns the land.

No, you continue to own your land.

You will be required to open your land to the public.

False. The standard farm easement does not require public access. Sometimes public access for trails and fishing sites, for example, can be part of a project.

Your farm will be taken off the tax rolls.

No. You will continue to pay property taxes on the restricted (conserved) value of your farm.

VLT is a Vermont State agency.

No. VLT is a non-profit organization founded in 1977 to conserve productive land for the future of Vermont.



Vermont Land Trust

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