

Landowner FAQs

Agricultural Stewardship Association



Frequently Asked Questions by Farmers & Landowners

WHAT IS A LAND TRUST?

Land trusts like Agricultural Stewardship Association (ASA) are private, non-profit organizations that work with landowners who wish to conserve their agricultural land, forests, open spaces, and other natural resources. ASA acquires land and holds conservation easements, facilitates land protection projects, and stewards protected land to make sure conservation goals are upheld over time.

WHY SHOULD I PROTECT MY LAND?

Protecting your land allows you to be proactive in determining your land's future rather than leaving it to chance. It guarantees that the land stays protected and will be available to the next generation. By protecting your land, you can ensure that the land is conserved, with the possibility that you may receive tax benefits or funds to invest in your operation.



WHAT IS A CONSERVATION EASEMENT?

A conservation easement is a voluntary, legal agreement between a landowner and ASA that protects the conservation values of the land, while also restricting or limiting certain future development on the land. Easements ensure farmland and forestland are protected, but ASA realizes that each parcel and situation is unique. ASA works with landowners to create easements that are tailored to the land (or any future operations and landowners). The goal is to protect the land and ensure it stays good forest or farmland land—forever.



WHAT DOES IT MEAN WHEN A PROPERTY IS RESTRICTED BY AN EASEMENT?

Easements typically place limits on certain development, subdivisions, and other uses of the land that are incompatible with the conservation values of the property. Easements may also be used to protect natural features such as wildlife habitat, wetlands, forests, and water resources. When you grant a conservation easement on your property, you still own the land and are able to sell or transfer the land in the future.



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WHERE DOES THE FUNDING FOR FARMLAND AND FORESTLAND PROTECTION PROJECTS COME FROM?

The majority of funding for the purchase of conservation easements comes from competitive state (Environmental Protection Fund) and federal (USDA) grant programs. Occasionally, ASA works with private funders or partner organizations that also are willing to contribute funding toward specific projects that meet these funders' goals or interests. If your land doesn't meet certain criteria for these grant programs, landowners can also donate easements to maximize potential tax benefits.



WHAT USES ARE STILL PERMITTED WHEN LAND HAS BEEN PROTECTED?

Generally, easements allow future development that supports the farm or forest, such as fencing, responsible forest management, farm or forest-related structures like barns, labor housing, and maple sugaring houses. Easements also allow for hunting and other recreational uses.

The easement terms vary depending on the purpose of the easement and what is being protected.



WHAT HAPPENS AFTER I PROTECT MY LAND WITH AN EASEMENT?

Easements are recorded at the county clerk's office and apply to current and future owners of the land. Most landowners experience no significant changes to their farming or forest operations. You still own the land and can choose to sell, lease, gift, bequeath, or mortgage the land under easement. ASA continues to uphold the easement terms moving forward. (See "Stewardship" brochure).

HOW ARE THE EASEMENT RESTRICTIONS ENFORCED?

ASA works cooperatively with the landowner (and all future owners) to ensure that activities on the land are consistent with the easement. ASA visits the property annually to make certain the easement terms are being upheld. If a violation occurs, ASA is obligated to work toward resolving it. Each violation is evaluated on a case-by-case basis and on the language in the easement. (See "Stewardship" brochure).



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HOW IS THE VALUE OF AN EASEMENT DETERMINED?

If a landowner plans to sell an easement or seek an income tax deduction, a qualified, independent appraiser establishes the full market value for the land (before it is conserved) and then determines a second value for the land after the conservation easement. The difference between the two values is the value of the development rights or agricultural conservation easement.



HOW CAN I DONATE AN EASEMENT?

Many owners of farms, forests, and other natural areas would like to see their land protected for future generations. A donation can provide property tax benefits as well as peace of mind. Donated easements are able to be conserved faster than purchased easements, and there is generally more flexibility in the easement. To inquire about this possibility, please contact ASA to discuss your options.

IF I SELL OR DONATE AN EASEMENT, DO I STILL RETAIN OWNERSHIP OF THE LAND?

Yes! If you choose to sell or donate a conservation easement, you do not give up title to the land. You continue to maintain full ownership of the property, subject to the terms of the easement. You pay all real estate taxes on the land and can sell, lease, or gift the land with an easement on it.

CAN I SELL OR DONATE AN EASEMENT ON LAND THAT HAS A MORTGAGE?

If your property has a mortgage, it is still possible to place a conservation easement on the land. However, it requires extra steps to ensure that all mortgages, liens, or other encumbrances to the property's title are discharged or subordinated to the conservation easement. If there is a mortgage, contact your bank, mortgage company, or lawyer to discuss. ASA can assist in this conversation.

I DON'T HAVE ANY HEIRS TO LEAVE MY LAND TO. WHAT SHOULD I DO?

ASA can help match land with those who are looking for land to lease or purchase regardless of whether the property has an easement or not. By protecting the land with an easement, a landowner can ensure it remains farmland or forestland, while also making the land more affordable for those who would like to get started or continue in agriculture or forestry.

ASA also has a Gifts of Real Estate program where landowners can donate their land outright to ASA (See "Gift of Real Estate" brochure). To find out more information about our Gifts of Real Estate program, please contact the office.



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IF I HAVE AN EASEMENT ON MY LAND, DOES THE PUBLIC HAVE A RIGHT TO USE MY PROPERTY?

No. There is no obligation for the land to be open to the public. ASA recognizes that landowners need the ability and freedom to work their lands and undertake other practices that would be more difficult to manage if the land were open to the public. The option to have the property open to the public is the choice of the landowner.



CAN I UNDO THE EASEMENT OR BUY BACK THE DEVELOPMENT RIGHTS?

No. Conservation easements are forever, and the development rights are extinguished when an easement is put in place. Landowners should be sure to carefully consult with family members, professional advisors, and legal counsel throughout the land protection process to ensure that an easement is the right decision for them.

WHAT HAPPENS IF ASA DISSOLVES?

Land trusts rarely dissolve. But if ASA is unable to monitor and enforce our easements, we must transfer the easements to an entity that is able to do so, such as another land trust. Every easement contains language specifying that it can be transferred to another entity that meets IRS and legal requirements.

HOW DOES AN EASEMENT AFFECT MY PROPERTY TAXES?

The New York State Conservation Easement Tax Credit provides an annual 25% property tax credit (of up to \$5,000 per year) on the land value only for landowners who donate, or partially donate, conservation easements on their land. The property tax credit can be claimed even with an agricultural exemption or if a property is enrolled in another tax abatement program such as the state's 480A forest management program. Having an easement does not guarantee a reduced property tax assessment. Landowners should consult with advisors to determine tax benefits.

DOES ASA OR THE FUNDING AGENCY HAVE THE ABILITY TO BUILD ON THE PROPERTY?

No. A conservation easement doesn't allow ASA or the funding agency (such as the state or federal government) to develop the land. The landowner retains the right to sell, lease, mortgage, farm, manage or otherwise use the property consistent with the terms of the easement. ASA (the easement holder) has the right to monitor, defend and enforce the terms of the easement.



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DO I NEED TO CONTINUE WORKING THE LAND AFTER I SELL AN EASEMENT?

No, there is no requirement that a landowner continue to work the land after protecting it. The goal of the easement is to protect the conservation values, such as the soils and natural resources, of the land and ensure it stays good land forever. Many landowners place easements on their land to help with retirement or succession planning.

WHAT HAPPENS WITH A CHANGE IN LAND OWNERSHIP?

Landowners are asked to notify their realtor and all potential buyers or heirs about the conservation easement on the property and how it works, as well as include the easement in the property deed. The restrictions of the conservation easement apply to all future owners of the land and those who lease it. ASA can work with realtors and future owners of the land to answer any questions.



HOW DO I GET STARTED IN PROTECTING MY LAND?

The first step is to contact ASA and arrange a time to meet with staff or discuss over the phone the various conservation options for your land. These meetings are free and confidential. We will explain to you more about how the process works and what options may be available depending on your property's physical features, conservation attributes and location, and funding availability.

For more information about easements or protecting your land, please contact ASA at:

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asa@agstewardship.org



www.agstewardship.org



See our website for more information

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