

# Frequently Asked Questions About Conservation Easements

## Short Version

### ***Introduction***

This document is intended to address many of the frequently asked questions about conservation easements. It should be noted that the West Bradford Township program applies equally to agricultural/farm easements.

For any further questions relating to West Bradford Township's open space program we encourage you to call Justin Yaich, the Township Manager at 610-269-4174.

### ***What is a conservation easement?***

A conservation easement is a voluntary agreement that allows a landowner to limit the type or amount of development on their property while retaining private ownership of the land. The easement is signed by the landowner, who is the easement grantor, and a land trust, such as the Brandywine Conservancy, Natural Lands, or The Land Conservancy for Southern Chester County, which is the party receiving the easement. The easement is effective in perpetuity. After the easement is signed and notarized, it is recorded with the County Recorder of Deeds and applies to all future owners of the land.

### ***Why do people grant conservation easements?***

Generally, people grant conservation easements because they care deeply for their land and wish to protect it from unwanted development, but they also wish to retain ownership of their land. By granting a conservation easement a landowner can assure that the property will be protected forever, regardless of who owns the land in the future. An additional benefit of granting a conservation easement is that the donation or sale of an easement may provide financial benefits to the landowner.

### ***What kind of financial benefits result from granting an easement?***

When a landowner conveys a gift of a conservation easement to a non-profit or public agency qualified to hold such interests, the transfer may entitle the landowner to a number of tax benefits.

### ***Can I sell, instead of donate, a conservation easement?***

A landowner may choose to sell, instead of donate, all or a portion of the value of the conservation easement to a land trust. In that case, the Township along with either or both Chester County or the State of Pennsylvania will pay in total up to 100% of the appraised value of the development rights affected under the terms of the easement.

### ***What activities are permitted on land protected by easements?***

The activities allowed by a conservation easement depend on the landowner's wishes and the characteristics of the property. In some instances, no further development is allowed on the land. In other circumstances some additional development is allowed. Conservation easements may be

designed to cover all or only a portion of a property. Every easement is unique, tailored to a particular landowner's goals and the conservation values of the land.

***Can the landowner still sell or give the property away?***

The landowner continues to own the property after executing an easement agreement. Therefore, the owner can sell, give or lease the property, as before. However, all future owners assume ownership of the property subject to the terms of the conservation easement. The conservation easement runs with the land in perpetuity.

***Does the public have the right of access to easement protected property?***

The public doesn't automatically have access to property protected by an easement unless the original landowner who grants the easement specifically allows it. Some landowners do not want, and therefore do not allow, public access to their property.

***Who owns the conservation easement?***

To qualify for a tax deduction, the easement must be donated or otherwise granted to and held by a government agency or qualifying 501(c)(3) non-profit conservation organization, such as the Brandywine Conservancy, Natural Lands, and The Land Conservancy for Southern Chester County.

***How long does an easement last and who owns it in the future?***

To be eligible for a federal income tax deduction the easement must be "perpetual," that is, it must last forever.

***Who owns and manages easement protected lands?***

The landowner continues to own the land and retains full rights to control and manage their property within the limits of the easement. The landowners continue to bear all costs and liabilities related to ownership and maintenance of the property. The land trust monitors the property to ensure compliance with the easement's terms, but it has no other management responsibilities and exercises no direct control over other activities on the land.

***Does the easement have to cover all the landowner's land?***

No, some easements cover only a portion of the landowner's property, according to the landowner's wishes.

***What kind of land can be protected by a conservation easement?***

IRS regulations require that the property have "significant" conservation values. This includes woodlands, wetlands, endangered species habitat, scenic areas, historic sites, and more. The Brandywine Conservancy, which is the open space advisor to West Bradford Township, upon the request of an interested landowner, would be glad to provide assistance in determining if your property would meet the general criteria for accepting easements and discuss the details of a land preservation project.