



Protecting Open Lands in Farms and Ranches from Development Through Conservation Easements

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Across the nation, farms and ranches are rapidly disappearing by land-use conversion to commercial and residential development. In Oklahoma, roughly 30,000 acres of open lands are converted annually, and the rate is increasing. Often, the most productive lands nearest our communities and the lands most valued for conservation and wildlife are under the most intense threat of development.

Fortunately, several nonprofit groups and public agencies are working to preserve open lands through conservation easements. Easements are **voluntary** restrictions by landowners to prevent conversion to nonagricultural uses and protect its conservation value.

Facts About Conservation Easements

- Just as mineral and water rights can be severed, bought and sold, a landowner can sell or donate the development rights to his or her property, to a qualified entity (generally a nonprofit land trust or public agency). The landowner retains full possession and use of the property for agricultural and other open space purposes.
- Conservation easements are voluntary tools to protect land from development. A conservation easement may protect such natural resources as prime soils, forests, water quality or scenic values.
- Conservation easements may be perpetual or be set to expire after a predetermined number of years (term). However, donation of an easement is tax deductible only if the easement is perpetual.
- Landowners retain their rights to use, sell or pass their land to their heirs, but future owners are bound by the easement terms.
- Easements leave private lands in private ownership and keep the land productive and contributing to the local tax base.
- Easements can be an economically viable alternative to development by compensating a landowner for the development rights they may choose to forego either through purchase or tax benefits.

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- Conservation easements are flexible documents that can be tailored to meet the needs of individual landowners, such as reserving a future home site, creating tracts within the whole or for creating a trust for future generations.
- Many open space uses are generally permissible, including farming, ranching, hunting, fishing and other activities that do not reduce the land's conservation values.
- Conservation easements do not require public access other than the right of the easement holder (nonprofit organization or public agency) to enter the property for an annual inspection.
- Donation of conservation easements is normally tax deductible at the appraised fair market value.
- Easements can be valuable estate planning tools for landowners. By reducing estate taxes, conservation easements can help landowners pass on their land to their children and grandchildren.

How is the Value of a Conservation Easement Established?

Donations of conservation easements are usually tax deductible. In some cases, a public agency or nonprofit organization may purchase a conservation easement. To establish its value for tax purposes or purchase, an appraisal must be performed.

When appraising the value of a conservation easement, a qualified appraiser must determine two values. First, the appraiser must establish the property's "highest and best use" value, which often means development, before an easement is placed on the property. Second, the property's "encumbered" value (or value if an easement is placed on the property with no development rights) must be determined. The difference between these two values is the appraised fair market value of the conservation easement.

For example, if a property's highest and best use value is \$2,500 per acre, but the value would be reduced to \$1,000 per acre if placed under a conservation easement, the value of the easement would be \$1,500 per acre (the difference between the highest and best use value and the value after an easement was placed on the property). Generally, the value of the easement increases as development pressures on a property rise.

An appraisal of the conservation easement determines the basis for a possible tax deduction or the potential price for the sale of an easement.

Frequently Asked Questions

Who can hold conservation easements?

Conservation easements may be held by public agencies such as the U.S. Department of Agriculture Natural Resource Conservation Service (NRCS), a municipality or by a nonprofit land trust organization.

What is the role of the holder of a conservation easement?

The entity that holds a conservation easement does not have the right to subdivide or develop a property, but rather it is merely obligated to enforce the easement's restrictions. The holder of an easement will require occasional (not less than annual) access to the property to inspect it for compliance with the easement. However, the easement holder does not assume



Figure 1. Conservation easements preserve farms and ranches threatened by development and urban sprawl because of their proximity to urban areas. A major concern with urban sprawl is the permanent loss of prime farm and ranch lands, which reduces our nation's ability to produce its own food supply.



Figure 2. Conservation easements can be an economically viable alternative to developing a property. Significant tax savings can be realized from the donation of a conservation easement. In some cases, landowners can sell a conservation easement at its appraised fair market value.

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Issued in furtherance of Cooperative Extension work, acts of May 8 and June 30, 1914, in cooperation with the U.S. Department of Agriculture, Director of Oklahoma Cooperative Extension Service, Oklahoma State University, Stillwater, Oklahoma. This publication is printed and issued by Oklahoma State University as authorized by the Vice President for Agricultural Programs and has been prepared and distributed at a cost of 42 cents per copy. 0816 Revised. GH.

management obligations for the property, which remain with the landowner.

What organizations in Oklahoma hold conservation easements?

Unlike many states, only a handful of organizations in Oklahoma hold conservation easements. Several public agencies including the USDA Natural Resources Conservation Service, the Oklahoma Department of Wildlife Conservation, the U.S. Fish and Wildlife Service and the Oklahoma Conservation Commission will hold easements on properties of interest. Also, several nonprofit organizations will hold conservation easements including Land Legacy, The Nature Conservancy, the Norman Area Land Conservancy and the Edmond Land Conservancy.

May I sell a conservation easement on my property?

Though funding for the purchase of conservation easements is extremely limited, some programs provide funds for public agencies and nonprofit land trusts to purchase them on certain properties. To learn more about these programs, contact any of the organizations listed above.

What open space uses are not appropriate for conservation easements?

Generally, any land use that detracts from the conservation, environmental and ecological value of open space. Confined animal feeding operations (e.g., feedlots, confined poultry or swine operations), high-fenced wildlife and exotic wildlife operations and wind turbine farms are good examples of inappropriate land uses under a conservation easement.

For More Information

For additional information on conservation easements, visit www.LandLegacy.com.



Figure 3. By protecting large blocks of open lands, conservation easements can produce significant ecological benefits, including wildlife habitat protection, conservation of forest resources, and preservation of prime soils. They can also serve as effective tools to protect water quality by providing natural buffers for streams and lakes.