

VES Land Trust

Steps for Landowners in Donating a Conservation Easement

Please plan ahead! It can take five months or more to complete the necessary steps to donate a conservation easement. If it is important to complete your easement this year, try to start the process no later than September 1 to be sure all steps are done in time.

- Read the background materials provided by the VES Land Trust, including the sample easement and our easement terms and guidelines.
- Contact the land trust to set up an appointment to meet on your property. Our professional staff and a member of our board will meet with you to determine your goals for the property. We also are available to meet with members of your family.
- If available, provide the land trust with copies of a survey of your property and aerial photos, forestry plans, articles on its history or any other background.
- Consider your preferred co-holder for the conservation easement; the Chesapeake Bay Foundation, the Eastern Shore Soil and Water Conservation District or Ducks Unlimited/Wetlands America Trust. The co-holder is a partner with the VES Land Trust in protecting the conservation values on your land forever.
- After the meeting, land trust staff will draft your conservation easement. Share the draft with your attorney and family members. Work with the land trust to ensure that the easement language is agreeable to all parties.
- Draft a personal letter to the VES Land Trust stating your wish to grant a permanent easement on your property and describing your interest in conserving the property. This letter serves as a record of your conservation intent.
- Review the material concerning the tax benefits of conservation easements. Consult with your attorney, tax planning professional or accountant to determine how the easement will affect your particular financial and estate-planning situation. The Land Trust cannot provide tax or legal advice.
- If you are planning to take an income tax deduction for your easement or to sell Virginia land preservation tax credits generated by it, arrange for a property appraisal by an appraiser experienced in this work. This can take five months.
- Ask your attorney to prepare a legal description of the property and a letter certifying you have clear title to the property. You will probably need a title search for this.
- If there is a mortgage on your property, contact your mortgage loan officer to request that the mortgage be subordinated to the conservation easement. This requires that the mortgage holder or any subsequent owner of the property adhere to the terms of the easement.

- Sign the VES Land Trust consent form regarding legal advice.
- Close to the time to record your easement, the land trust will complete a baseline documentation report on your property. This report will describe the conservation values on the land. You must review and sign the document, which becomes the basis for monitoring the easement in the future. The baseline documentation report *is required by the IRS* if you wish to take an income tax deduction for your easement donation.
- The Land Trust must also review your easement appraisal, or at least the estimated easement value with your appraiser, before we will record the easement. The land trust and your appraiser must sign IRS form 8283, required by the appropriate agencies if you wish to claim state and federal tax benefits from your easement. (See *VES Land Trust Appraisal Policy*).
- The VES Land Trust Board of Trustees must vote to accept your conservation easement and the easement must be signed by a land trust officer. We also will send the approved easement to the co-holder organization, for approval by its Board of Directors and a signature. Finally, you must sign the easement. All signatures must be witnessed by a notary public.
- Complete and sign the VES Land Trust Easement Endowment Fund Pledge Form to arrange for your gift to the Easement Endowment Fund.
- Once these steps are complete, we will record the complete conservation easement in your county Court House. For tax purposes, the date the easement is recorded is considered the date of your charitable gift.
- Within 60 days, you will need to register the Virginia Land Preservation Tax Credits generated by your conservation easement with the state Department of Taxation. The Land Trust, your accountant or attorney can help you complete the forms, which require a copy of IRS Form 8283 signed by the land trust and your appraiser, and a copy of the appraisal.
- You also will need to document your easement value on your federal tax return for the year it was donated, with IRS Form 8283 and a copy of your appraisal.
- Once each year thereafter, the VES Land Trust will contact you to schedule a convenient time for an annual monitoring visit.

For more information, contact Peter Henderson at the VES Land Trust, 757-442-5885, pete@veslt.org or info@veslt.org.