



*A preservation easement is a relatively flexible tool. It can be crafted to meet the specific characteristics of the property, the property owner's interest in continuing to actively use the land, and the easement holder's mission.*

**For More Information:**

**Virginia Department of Historic Resources:**  
Wendy Musumeci, Easement Program Coordinator,  
(804) 482-6096

[www.dhr.virginia.gov/easement/easement.htm](http://www.dhr.virginia.gov/easement/easement.htm)

**National Trust for Historic Preservation:**

[www.preservationnation.org/information-center/law-and-policy/legal-resources/easements](http://www.preservationnation.org/information-center/law-and-policy/legal-resources/easements)

**Virginia Outdoors Foundation:**

[www.virginiaoutdoorsfoundation.org](http://www.virginiaoutdoorsfoundation.org)

Note: This information is intended to provide general guidance only. Easements are legal tools defined by federal and state laws. The advice and assistance of a knowledgeable attorney, tax advisor, appraiser, and/or other professionals should be sought prior to the use of this tool.

**FAUQUIER COUNTY**

**DEPARTMENT OF  
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# Historic Preservation Easements



**FAUQUIER COUNTY**

**DEPARTMENT OF COMMUNITY  
DEVELOPMENT**

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Owners of historic properties devote considerable time, effort, and expense to maintain their properties. Some worry that their properties will not be properly protected in the future by subsequent owners. Likewise, preservation and conservation organizations have a strong interest in ensuring long-term protection of the hundreds of historic properties that remain in active private use—whether a historic farm, battlefield land, or an important building in a historic district.

For property owners who wish to permanently protect their historic properties, one of the most effective legal tools available is the preservation easement—a private legal right given by a property owner to a qualified organization or governmental entity for the principal purpose of protecting a property’s historic, architectural, and/or archaeological significance.

### **A Partial Interest**

An easement is considered a “partial interest” in real property—the property owner continues to own the property but transfers the specific set of rights represented by the easement to the easement-holding organization. Typically, a preservation easement protects against changes to a property that would be inconsistent with the



preservation of the property, such as wide-scale development, demolition of historic buildings, inappropriate alterations, or subdivision of land. The restrictions of the easement are generally incorporated into a recordable easement deed that is part of the property’s title (in legal terms, it “runs with the land”)—and this title interest is binding both on the present owner and future owners. While some easements are for a period of years, in most instances, preservation easements are created in perpetuity.

### **Financial Incentives for Preservation Easements!**

Preservation easements have become an important component of federal and state policy to encourage public participation in the preservation of America’s historic resources. Property owners who donate preservation easements to qualified easement-holding organizations may be eligible for a charitable contribution deduction from their Federal income taxes for the value of the historic preservation easement—provided that the contribution meets the standards of the Internal Revenue Service (IRS). Property owners who donate preservation easements may also qualify for Virginia’s Land Preservation Tax Credit program, which has allowed donors to not only offset their state income tax liability, but also receive cash by selling their unused credits to other Virginia taxpayers.

### **More than Preserving History**

Land conservation efforts are more than protecting historic places. Private easements can conserve our plant and animal communities, protect water quality, provide a sustainable

working agricultural landscape, offer public natural areas and parks, and enhance our quality of life as Virginians.



### **FEDERAL TAX INCENTIVES FOR CHARITABLE CONTRIBUTIONS**

*Under Section 170(h) of the Internal Revenue Code, a donor of a qualified conservation easement is entitled to a charitable contribution deduction in the amount of the appraised value of the donated easement, as determined by a qualified real estate appraiser. Because each preservation easement valuation depends upon a number of variables that are unique to each property, including existing historic preservation laws that may already impact the property, there is no “one size fits all” approach to valuing preservation easements.*

*A charitable contribution is considered to be made for a conservation or preservation purpose if it protects land areas for: outdoor recreation or for the education of the general public, natural environmental systems (including fish, wildlife, or plant habitat), open space (including farmland and forest land), where such preservation will yield a significant public benefit, or a certified historic structure or historically important land area. A “certified historic structure” is a building, structure, or land area that is individually listed in the National Register of Historic Places or a building (but not a structure or land area) located in a National Register historic district and listed as a contributing element to the district. The donation of an easement over a “historically important land area” includes land that is either independently significant (such as a Civil War battlefield) and substantially meets National Register criteria for evaluation or is adjacent to (and contributes to the integrity of) a property listed in the National Register of Historic Places.*