

Prepared By: _____
Virginia State Bar Number, If Applicable: _____

DEED OF EASEMENT

THIS DEED OF EASEMENT, made this ____ day of _____, 20____ by and between _____, _____, TRUSTEE, parties of the first part, hereinafter referred to as GRANTORS; and the BOARD OF SUPERVISORS OF FAUQUIER COUNTY VIRGINIA, a body politic, party of the second part, hereinafter referred to as GRANTEE:

WITNESSETH:

WHEREAS, the Grantors are the owners of the real property hereinafter described which they desire preserved as open space land in the public interest and:

WHEREAS, the said real property meets criteria established under the Fauquier County Zoning Ordinance for open space land, inasmuch as the said land is agriculturally significant for production for commercial purpose of crops, livestock or livestock products, and it contains a minimum of 25 acres; and

NOW Therefore, in recognition of the foregoing and in consideration of the sum of One Dollar (\$1.00), and other valuable consideration, and receipt of which is hereby acknowledged, the Grantors to hereby grant and convey to the Grantee an open space easement in gross, over, and the right in perpetuity to restrict the use of the following described real estate situated in _____ Magisterial District, Fauquier County, Virginia, herein called the Property:

All that certain tract or parcel of land situated _____ of _____, _____ Magisterial District, Fauquier County, Virginia, and according to a plat of survey by _____, dated _____ of record in Deed Book _____, page _____ in the office of the Clerk of the Circuit Court of Fauquier County, Virginia, containing _____ acres, more or less, shown on the plat as non-common open space, and formerly known as Parcel Identification Number _____.

Grantee's Name & Address: Fauquier County
10 Hotel Street, Warrenton, VA 20186
Tax Map Number: _____
Tax Exempt Code, if applicable: _____
Return to Name and Address: Fauquier County
10 Hotel Street, Warrenton, VA 20186

Being a portion of that certain property conveyed to the Grantors herein by deed of record in Deed Book _____, page _____ in the office of the aforesaid Clerk. The restrictions hereby imposed on the use of the above-described property are in accord with the policies of the Commonwealth of Virginia and the County of Fauquier; and the acts which the Grantors, their heirs, successors and assigns, so covenant to do and not to do on the Property, and the restrictions which the Grantee is hereby entitled to enforce, are and shall be as follows:

1. Accumulation of trash, refuse, junk or unsightly material is not permitted on the Property.
2. Display of billboards, signs or other advertisements is not permitted on or over the Property, exception to state solely the name and/or address of the owners, or to advertise the sale or lease of the Property, or to advertise the sale of goods or services produced incidentally to permit the uses of the Property. Provided that no sign on the Property shall exceed nineteen square feet in total area.
3. Subdivision of the Property is prohibited.
4. Management of timber shall be in accord with sound forestry practices under management plans.
5. Grading shall not alter the topographic aspects of the Property except for dam construction to create private conservation of ponds or lakes, or as required in construction of permitted building or roads, described in No.6 below:
6. No building, structure, or mobile homes shall be built or maintained on the Property other than (I) farm buildings or structures and (II) a single family dwelling and outbuildings commonly or appropriately incidental thereto; notwithstanding the foregoing, this easement permits the following structures which were existing on the subject property at the time of the execution of this easement:

7. Industrial or commercial activities except farming, silviculture or horticulture are prohibited except as can be and in fact are conducted from the residence house, shop, toolhouse or other permitted buildings without alteration of the external appearance of the same.
8. Use of the Property shall be limited to those permitted uses shown in Section 3-318 of the Fauquier County Zoning Ordinance.

Representatives of the Grantee may enter the property only from time to time for the purpose of inspection and enforcement of the terms of the open space easement granted herein, following the receipt of permission from or after reasonable notice to the landowner of the intended entry.

Although this easement in gross will benefit the public in ways recited above by encouraging the required elements of good land management, nothing herein shall be construed to convey a right to the public of access or use of the Property, and the Grantors, their heirs, successors and assigns shall retain exclusive right to access and use.

This Deed of Easement shall be construed to run with the land in perpetuity and shall be binding on the successors, assigns, heirs, trustees and grantors or the parties, and may be modified only as follows:

1. This easement may be modified after 25 years by the majority vote of the Board of Supervisors of Fauquier County and the then current lot owners of the subject parcels. Such vote by the Board may be taken only after a duly advertised public hearing, and must be based on a positive finding that:
 - a. The open space, the use(s) to which the open space was restricted are no longer possible, and are in conflict with a duly adopted Comprehensive Plan;
And
 - b. Substitute open space proposed by the applicant is at least of equivalent usefulness and acreage and would better comply with the duly adopted Comprehensive Plan;
Or
 - c. That there is no provision in the Comprehensive Plan or the Zoning Ordinance advancing the purpose for which the Deed restriction was required.

WITNESS the following signatures and seals:

_____ (GRANTOR)

STATE OF VIRGINIA
COUNTY OF FAUQUIER, to wit:
The foregoing instrument was acknowledged before me, _____, this ____ day
of _____, 20__ by _____.

Notary Public

My commission expires:

_____ (GRANTOR)

STATE OF VIRGINIA
COUNTY OF FAUQUIER, to wit:
The foregoing instrument was acknowledged before me, _____, this ____ day
of _____, 20__ by _____.

Notary Public

My commission expires:

_____ (GRANTOR)

STATE OF VIRGINIA

COUNTY OF FAUQUIER, to wit:

The foregoing instrument was acknowledged before me, _____, this ____ day
of _____, 20____ by _____.

Notary Public

My commission expires:

ACCEPTED:

BOARD OF SUPERVISORS OF FAUQUIER COUNTY, VIRGINIA

By _____

STATE OF VIRGINIA

COUNTY OF FAUQUIER, to wit:

The foregoing instrument was acknowledged before me, _____, this ____ day
of _____, 20____ by _____.

Notary Public

My commission expires:
