



## CONSERVATION EASEMENT GUIDELINES

These guidelines are intended to provide guidance to landowners considering donation of a conservation easement to the Piedmont Environmental Council (PEC). A proposed easement must preserve and protect in perpetuity the conservation values of the property being put under easement. The property's conservation values and any historic, natural, scenic, scientific, or recreational values are evaluated by PEC staff, are set forth in the deed of easement, and are described in the documentation of the property contained in PEC files and records.

The specific terms of a conservation easement vary according to the characteristics of your property. Evaluation by PEC staff takes into account the following:

- The size, topography, and natural features of your property
- Improvements on the property
- The average parcel sizes of properties in the area and topography of the surrounding area.
- Your property's individual characteristics, its significant resources, its conservation values, and the specific protections needed to sustain those particular values.

Restrictions necessary to protect the conservation values of your property might include limitations on:

- Divisions of the property
- The number and size of improvements that can be constructed on the property
- Location of structures on the property
- Use of streamside areas

### Essential Criteria

When evaluating a property for a conservation easement, PEC staff must ensure that the donation will meet the criteria set forth in the PEC Land Conservation Policies. Therefore, all conservation easements accepted by PEC must have the following elements:

- Preservation of the property will promote PEC's mission of safeguarding the landscapes, communities and heritage of the Piedmont.
- Conservation of the property is consistent with the local Comprehensive Plan.
- Preservation of the property must have a clear public benefit.
- The property contains significant natural, agricultural, recreational, educational, scenic or historical resources that meet the criteria of Section 170(h) (4)(A) of the IRS Code (Note: donated easements must meet the IRS code in order to be a qualified charitable contribution from the landowner).

Small properties present unique challenges for conservation and ongoing stewardship. Therefore, for properties of 30 acre or less, at least one of the following criteria must be met:

- The property must be visible from a designated or eligible scenic Virginia Byway, state Scenic River or public park, publicly-owned conservation lands, a property either listed or eligible for listing on the Virginia Landmarks Register or the National Register of Historic Places, or
- Allow public access for uses consistent with a proposed conservation easement; or,
- Be substantially surrounded by other protected land; or,
- Contain significant natural heritage or historic resources; or
- The conservation values of the property are otherwise deemed critical by the PEC Board of Directors or Executive Committee.

### Guidelines for Easement Restrictions

#### **Division of Land**

To protect the conservation values associated with each property, properties should remain as a whole to the extent possible and parcelization should be minimized. Your property will be considered as a single unit for the purpose of permitted easement divisions despite its number of tax parcels or the number of subdivisions that may be permitted by the locality in which the property is situated.

In general, the following density restrictions are the **maximum** that will be permitted. For properties with significant portions of land with development limitations, such as wetlands or steep slopes, these density restrictions should be applied to the developable acreage of your property, and not to the total acreage.

- Properties of *less than 100* acres should remain as a whole. The easement should not permit any division or any conveyance except as a whole.
- Properties *between 100 and 149 acres*: PEC staff will recommend that your property remain as a whole. In certain circumstances, two parcels may be permitted provided that the other terms of the easement, such as number and/or size or locations of dwellings, building setbacks, riparian buffers or other natural resource protections create an otherwise equivalently protective easement.
- Properties of *150 to 249 acres*: PEC staff will recommend that your property be divided into no more than two parcels.
- Properties of *250 to 299 acres*: PEC staff will recommend that your property be divided into no more than two parcels. In certain circumstances, three parcels may be permitted provided that the other terms of the easement, such as number and/or size or locations of dwellings, building setbacks, riparian buffers or other natural resource protection create an otherwise equivalently protective easement.
- Properties of *300 acres to 599 acres*: PEC staff will recommend an overall density of no more than one parcel per 100 acres (e.g. 440 acres: a maximum of four parcels.).
- Properties of *600 to 799 acres*: a maximum of six parcels.
- Properties of *800 to 999 acres*: a maximum of seven parcels;
- Properties of *1,000 acres or more*: PEC staff will recommend a maximum of eight parcels. Additional parcels may be permitted on larger acreages on a case by case basis.

There is, in most cases, no minimum acreage requirement for parcel size. Subdivided parcels may be small lots that allow retention of the maximum open space on the remainder of the property to maintain a viable size for farming or forestry. The sliding scale is intended to encourage the preservation of large intact tracts of land.

### **C. Dwellings**

Number of Dwellings: One dwelling for each of the permitted parcels is normally permitted. A second dwelling for one or more of the permitted parcels may be permitted, provided that the aggregate ground area square footage of the two dwellings is limited. Barn or garage apartments count in the number of permitted dwellings and their aggregate square footage. Existing habitable dwellings of any kind count in the number of permitted dwellings and their aggregate square footage.

Sizes of Dwellings: Generally, ground area of dwellings may not exceed 3,000 square feet without PEC's prior review and written approval. If more than one dwelling per parcel is permitted (as noted above), the aggregate ground area may not be larger than 4,000 square feet per parcel. Additional square footage for dwellings may be considered on a case-by-case basis with consideration given to whether additional height and location restrictions are included in the easement restrictions.

Locations of Structures: Location of all structures may be limited to preserve the view from such public places as roads, rivers, parks, outlooks, etc. or to protect a natural or historic resource particular to the property. Specifically, structures may be limited to specific "Building Envelopes" or prohibited from no-build areas on the property. PEC staff will work with you to determine the optimal configuration of these areas based on your property's particular configuration, the conservation values protected by the easement, and your needs as a landowner.

### **D. Farm Buildings and Structures**

Farm buildings and structures typically may not exceed 4,500 square feet in ground area without the prior written approval of PEC. On large working farms, the size threshold for review of new farm buildings or structures may be increased to a threshold size of up to 10,000 square feet.

### **E. Other Typical Restrictions:**

- **Forestry:** Forestry is permitted, provided that PEC has approved a forest stewardship management plan and a pre-harvest plan prior to any timber management and that Best Management Practices are used to control erosion and protect water quality when a timber harvest is undertaken. Additional limitations may be appropriate on specific properties.
- **Riparian (stream buffer) Protection:** To achieve water quality protection, riparian buffers are strongly recommended along all streams, rivers, or other significant water resources on the property. The most effective buffers exclude livestock from the waterway. If your easement will exceed a value of \$1M in tax credits, a livestock exclusion buffer will be required by the Department of Conservation and Recreation before tax credits can be issued.
- **Mining:** Mining and other activities that would alter the natural topography of the land are not permitted with exceptions for construction of permitted improvements, generally accepted farming practices, erosion and sediment control measures, and similar activities that do not impair the conservation values of the property.
- **Scenic Protection:** To protect scenic resources, no-build areas or setbacks from roads, rivers, or historic structures may be required and large signs, accumulation of junk or trash, and certain commercial structures such as large scale cell towers are not permitted.

**F. Stewardship: Monitoring and Enforcement**

PEC is permitted, via language in the easement, to inspect the property periodically and to enforce the restrictions set forth in the deed of easement.

**Proposed restrictions other than those identified above and contained in the PEC easement template must have clearly delineated conservation purposes, must be readily observable by staff during routine monitoring visits, and restrictions must be practicable to monitor and enforce.**



The Piedmont Environmental Council has received Accreditation from the Land Trust Accreditation Commission, which recognizes land conservation organizations that meet national standards for excellence, uphold the public trust and ensure that conservation efforts are permanent.