



**N.C. Department of Agriculture & Consumer Services**  
N.C. ADFP Trust Fund  
*Landowner Site Visit Handout*



## What is an Agricultural Conservation Easement?

An agricultural conservation easement is a legal tool that restricts residential, commercial, and industrial development of land to maintain its agricultural and forestry production capability through deed restrictions. The primary purpose of an agricultural conservation easement is to keep land available to produce food, feed, fiber, and fuel.

Landowners voluntarily place deed restrictions on their property. While agricultural conservation easement language can vary, the deed of agricultural conservation easement lists restrictions of non-agricultural development and reserved rights and allowable uses. Landowners may be compensated for removing these development rights through cash compensation or tax incentives.

Landowners must work with qualified entities on agricultural conservation easement projects. Qualified entities are county governments or nonprofit land trusts. These entities apply for grant funding on behalf of landowners, receive grant funds to create agricultural conservation easements, and, after the agricultural conservation easement is recorded, are the easement holders responsible for enforcement of the deed restrictions.

Land under an agricultural conservation easement remains in private ownership, and the landowner retains fee simple ownership. It is important to note that these deed restrictions “run with the land,” meaning the terms and conditions stay with the land as it is transferred to buyers or heirs of the landowner. Landowners are still responsible for paying property taxes and following all applicable local, State, and federal laws and regulations.

Placing a conservation easement on your property can have significant land use, income tax, and estate planning consequences. It is important that landowners consult with legal counsel before completing a transaction to assist in the decision-making process and review of legal documents. Additionally, landowners should consult the advice of a qualified tax advisor to obtain information regarding the specific tax consequences for either the donation or sale of an agricultural conservation easement. Proceeds from the sale of development rights may be subject to capital gains, and the donation of easement value may be eligible for a federal income tax deduction.

## Agricultural Conservation Easement Templates

Agricultural conservation easements with North Carolina Department of Agriculture and Consumer Services (NCDA&CS) funding follow a standardized easement deed template based on contract specifics. An agricultural conservation easement template will be used for the subject property and in the prescribed format with no changes beyond fillable fields and optional sections.

Easement language within the templates varies based on:

- Valuation Method
  - Standard Appraisal or Present Use Value
- Funding Partners
  - NCDA&CS, USDA-NRCS, County Program, Military



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- Easement Holding Entity(s)
  - Land Trust, County Government, Soil and Water Conservation District, Qualified Entities as Co-Holders
- Presence of Residential Building Sites

*Please note: this is not an exhaustive list. The specific easement template will be identified when the contract is awarded.*

## What are the Restrictions or Prohibitions of the Agricultural Conservation Easement?

In general, agricultural conservation easements limit parcel subdivision, non-farm development, and other uses inconsistent with agricultural activities. Subdivision is defined as the separation of the land parcel.

The agricultural conservation easement restricts or prohibits certain activities, such as:

- Development
- Subdivision
- Surface and Subsurface Mineral Exploration and Extracting
- Dumping and Trash
- Structures and Improvements
- Signage
- Limitations on Impervious Surfaces

*Please note: this is not an exhaustive list. The specific easement template provides full details on restricted or prohibited activities.*

## What Rights are Retained by the Landowner with an Agricultural Conservation Easement?

After granting an agricultural conservation easement, landowners retain fee simple title to their property. Landowners can still restrict public access, enforce trespass, farm the land, cut timber, hunt or fish, use the land as collateral for a loan, or sell their property.

Land with an agricultural conservation easement remains on local tax rolls. Landowners continue to be eligible for state and federal farm programs.

Landowners are responsible for paying taxes, upkeep and maintenance, providing notice of sale or transfer of the property, managing the land in accordance with defined erosion control practices that are addressed to highly erodible land, and allowing monitoring visits with reasonable advance notice.

Landowners who receive federal funding through USDA: NRCS will be required to follow a conservation plan approved by NRCS.



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Landowners retain certain rights, such as:

- Right to Farm
- Right to Privacy
- Right to Use the Protected Property for Customary Rural Enterprises
- Agritourism, Ecotourism, and Special Events
- Allowable Construction
- Recreational Improvements
- Utility Services
- Septic Systems
- Fuel Storage
- Forest Management and Timber Harvest
- Water Rights
- Land Application
- Natural Resource Restoration and Enhancement Activities
- Pond Creation and Wetland Restoration

*Please note: this is not an exhaustive list. The specific easement template provides full details on retained rights and procedures for certain activities.*

## Next Steps in the Application Process

NCDA&CS Farmland Preservation staff visit each farm to verify application information and work with the applicant organization to complete any remaining application needs.

In the spring following application submission, NCDA&CS Farmland Preservation staff will evaluate applications based on preset criteria.

In June, NCDA&CS will hold a meeting of the Agricultural Development and Farmland Preservation Trust Fund Advisory Committee to review the applications and provide recommendations to the Commissioner of Agriculture.

Notifications of awards are sent to the applicant organizations after the certification of the state budget. Awards are usually issued in August, and grant contracts have a contract start date of October 1.

## Development of the Agricultural Conservation Easement

If the application submitted by the applicant organization on behalf of the landowner is awarded funding, a grant contract is created. This grant contract is between NCDA&CS and the applicant organization. The Land Trust, County Government, or Soil and Water Conservation District is now the grantee and manages the grant contract to fulfill all the due diligence requirements. Once all due diligence documents have been approved, NCDA&CS legal works with the closing attorney's office to set a date for agricultural conservation easement recordation.



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While the timeline for recordation is targeted within the first year, delays can and often do occur. Depending on the funding sources used, legal or environmental issues identified during the due diligence period, and contractor (surveyors, appraisers) availability, this process can be lengthy.

It is essential that landowners maintain open communication with the grantee organization. Any items relating to legal or environmental issues must be relayed to the primary contact as soon as possible. These are most often the cause of delays in the agricultural conservation easement process.

If you are experiencing financial difficulties or other issues that may impact the agricultural conservation easement timeline, please contact the grantee working on your behalf.

## Monitoring and Stewardship of the Agricultural Conservation Easement

Monitoring and stewardship of the agricultural conservation easement is essential in building cooperative relationships between landowners and easement-holding entities.

After the agricultural conservation easement is recorded at the Register of Deeds, the easement-holding entity, typically the grantee during the development of the agricultural conservation easement, will annually monitor the agricultural conservation easement property through an on-site visit. After the visit, a written report is provided to funding partners like NCDA&CS. This monitoring visit and report ensures the terms and conditions of the recorded deed of conservation easement are upheld.

Every third year, NCDA&CS Farmland Preservation staff and any other funding partners will join the grantee on the monitoring visit. Landowners are also encouraged to participate in the monitoring visit. Landowners should notify the easement-holding entity of any changes to the property, such as a timber harvest or new construction in the Farmstead Building Envelopes, so that current conditions on the property are kept up to date.

As specified in the recorded deed of conservation easement, the easement-holding entity is responsible for enforcement of the restrictions of the easement in case of a potential violation.

The State maintains third-party enforcement rights to ensure the terms and conditions of the recorded deed of conservation easement are upheld by both the landowner and easement-holding entity.

While the conservation easement property can change ownership over time, these restrictions will remain on the deed in perpetuity. It is imperative that heirs, potential buyers, farm managers, and lessees are aware of the terms and conditions of the agricultural conservation easement.