

CONSERVATION EASEMENTS

INTRODUCTION

Larimer County is growing steadily and land is continuously being developed and converted from its natural, open and agricultural uses to residential use. Some of the land with potential for development also has conservation values that can be preserved with a conservation easement by means of a donation of all or a portion of the value of the easement, supplemented with Larimer County Open Space sales tax dollars, that yields a financial benefit to the landowner.

WHAT IS A CONSERVATION EASEMENT?

A conservation easement is a perpetual land conservation tool that contains permanent restrictions on the way the land can be used, as well as reserved rights that current and future landowners can utilize to continue to use and enjoy the land. Each easement is crafted to reflect the needs and objectives of the landowner and the agency holding the easement (the County in this case).

Conservation easements allow:

- Larimer County to fulfill its mission of protecting natural, scenic, historic, and agricultural resources, among other conservation values.
- Landowners to realize a portion of the development value from their land while remaining the owner and preserving values important to them.

WHY DO LANDOWNERS ENTER INTO A CONSERVATION EASEMENT?

Landowners enter into a conservation easement as a voluntary act to preserve and protect the conservation values that exist on their property at the time of the easement. In Larimer County these values may include unique geological features such as hogbacks and valleys, cropland and rangeland, wetlands, wildlife habitat, plant communities, view sheds, and expanding existing protected lands.

An organization, such as Larimer County, that is interested in preserving the conservation values may accept a donated easement or pay part or all of the value of the easement to the landowner. In addition to any cash the landowner may receive from the easement holder, the landowner may also pursue property, income, and estate tax benefits for donating all or part of the value of the easement as a “charitable contribution.”

WHAT ARE THE TAX CONSIDERATIONS SPECIFICALLY?

Property Taxes - In Larimer County, if the property is not already taxed at the lowest agricultural property tax rate, the conservation easement will likely qualify the property for this very low tax rate.

Federal Income Taxes - Under the current federal law, any value of the conservation easement that is donated may be considered a tax-deductible charitable gift. This tax benefit could allow the donor to deduct a percentage of his or her adjusted gross income in the year of the gift, and future years, if applicable.

Estate Taxes – Any estate taxes that are due or become due will often be decreased because the conservation easement reduces the overall value of the property by restricting its development potential beyond the current owner’s lifetime.

State Income Taxes - A landowner may earn a Colorado State Income tax credit to be used toward Colorado income tax equal to 75% of the first \$100,000 of the donation and 50% of the remainder of the donation up to a maximum tax credit of \$1,500,000. Landowners have twenty years to use the tax credit toward their own income tax liability. Landowners also have the option of selling their tax credit, at a reduced value, through a tax credit broker.

In order for a landowner to be eligible for certain tax deductions and credits:

- The easement must be granted to an entity certified by the State of Colorado to hold conservation easements. This could be a government entity such as Larimer County, or a private non-profit land trust such as Colorado Open Lands, which are both certified by the State and renew this certification annually.
- The landowner must be a resident of Colorado. If the land is owned by an entity, the “resident” determination is a bit more complex and should be discussed further.

Landowners should seek guidance from their attorneys and financial advisors regarding the legal and tax implications of granting a conservation easement on their property.

WHO HOLDS THE CONSERVATION EASEMENT?

The landowner retains ownership of their land while the holder of the easement is responsible for enforcing the provisions of the easement, even if the land is sold or inherited. Conservation easements run with the land in perpetuity, ensuring that the conservation values being protected today will be protected no matter who owns the land in the future.

WHAT ARE THE OBLIGATIONS OF CURRENT AND FUTURE LANDOWNERS?

- 1) To utilize the property in a manner that protects the conservation values,
- 2) To prevent any uses that are specifically stated as "prohibited" in the easement, or other uses that would negatively impact the conservation values,
- 3) To allow the easement holder to access the property at least once per year to confirm that the terms of the conservation easement are being followed.

IS PUBLIC ACCESS ALLOWED ON CONSERVATION EASEMENTS?

Public access is not required with a conservation easement and is completely at the discretion of the landowner, although, when appropriate, Larimer County encourages landowners to allow the public to access the property to some extent.