

# Buying Protected Land

Agricultural Stewardship Association



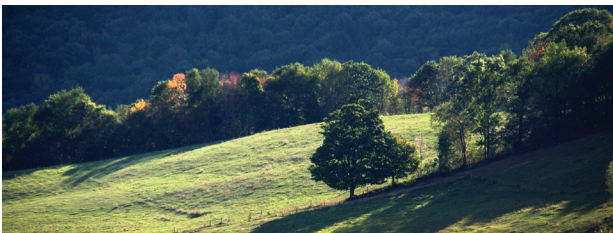
## Conservation easements play an essential role in protecting the working landscapes of our region.

For a landowner, donating or selling an easement offers many benefits—including the security of knowing the land stays available for farming and forestry for future generations. Are you interested in buying land already under easement? Here's what you need to know.



### WHAT IS A CONSERVATION EASEMENT?

A conservation easement is a legal agreement between a landowner and ASA that protects the conservation values of the land, while also restricting or limiting future development on the land. The goal is to protect the land and its natural resources for future generations. After placing a conservation easement on a property, the landowner still owns the land and is able to sell, lease or transfer the land in the future. When land protected by an easement is sold, all future landowners must continue to abide by the easement terms.



### HOW DOES AN EASEMENT AFFECT THE LAND'S FUTURE USE?

No two conservation easements are the same. Use of the land depends entirely on the language and terms of the easement, which was drafted to consider the goals of the landowner at the time the land was protected while still leaving room for growth for future landowners. Because conservation easements are permanent, you and your professional advisor should carefully review the terms before buying protected land. A conservation easement usually details land use, which includes the following:

- **Agricultural Use:** A primary purpose of ASA's agricultural easements is to conserve productive farmland for future generations. However, most agricultural easements do not require landowners to farm.
- **Forestry Use:** The purpose of easements on working forests is to conserve the natural resources and potential forest products for future generations. Many forestry easements also contain climate resilience language.
- **Ecological Use:** There may be language that protects wildlife habitat, wetlands, and waterways.
- **Recreational Use:** Recreational uses are not typically restricted, but check for language that prohibits certain forms of recreation or limits the size of recreational structures on the property.
- **Development Use:** Some easements designate



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areas where future development is allowed. Some don't. Make sure you are comfortable with the specifics of what kind of structures are permitted and where.

• **Activity Use:** Similar to development use, some easements have areas where certain activities are allowed. Specific activities are limited to certain areas of the easement property. Make sure you are comfortable with the specifics of what activities are permitted and where.



- Homesites/building envelopes, new construction, reconstruction
- Subdivisions
- Roads, new road construction, maintenance, paving, etc.
- Recreation, hunting, ATV and snowmobile use, trails
- Utilities, new installation, above ground or buried
- Renewable energy
- Commercial uses
- Water resources (ponds, wetlands, soil drainage and tiling, etc.)
- Timber harvesting
- Mining



## HOW WILL AN EASEMENT AFFECT THE LAND'S VALUE?

As a buyer, the land under easement may be more affordable, reflecting a reduced value due to the extinguishment of most of the subdivision and building rights. Often, this facilitates the transfer of ownership of the property to heirs or the next generation.



For a landowner, donating or selling an easement **offers many benefits**

When analyzing the language of a conservation easement, carefully consider the "prohibited uses" (or inconsistent uses) and "permitted uses" (or consistent uses). The following are some of the uses commonly listed in a conservation easement with detailed rights and restrictions:



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## CAN YOU AMEND OR TERMINATE AN EASEMENT?

A conservation easement is written to last forever. Amendments are typically only allowed to address errors in drafting, extinguish additional rights, or add land to the easement property.



## HOW ARE EASEMENTS ENFORCED?

The holder of an easement—ASA or another qualified entity— has a legal responsibility to ensure that the terms of an easement are followed over time. To do so, ASA visits the protected properties annually to monitor and record any changes that have taken place in the landscape in the previous year, applicable to the easement terms. For more information, please see ASA's Stewardship Brochure.



## WHAT ARE THE BENEFITS OF OWNING PROTECTED LAND?

Priceless benefits include knowing that the land's conservation values will be protected forever. There may also be tax benefits. Please see ASA's Tax Benefits of Conservation Brochure for more information, and plan to meet with a financial and tax professional.

For more information  
on buying protected  
land, please contact:

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