



# Vermont Land Trust

CONSERVING LAND FOR THE FUTURE OF VERMONT

## Farmland Conservation

### Overview

Selling a conservation easement—sometimes called development rights—on a farm is a competitive process that begins by contacting the Vermont Land Trust (VLT). We help identify the best farm candidates for conservation funding, and assist landowners with the application process.

### The Conservation Easement: A Legal Tool

We conserve farms using a legal tool called a conservation easement. An easement is recorded in the local land records, just like a deed. While it permanently limits development, landowners continue to own and manage their land and can pass it along to a family member or sell it. The permitted and prohibited uses are described in the easement.

Generally, practices important to farming are encouraged, while those that harm agricultural uses, such as mining or removing topsoil, are prohibited. Each farm easement varies somewhat to accommodate the special characteristics of each farm.

Because conservation easements are permanent, it is very important that landowners understand the restrictions they are agreeing to. A separate VLT publication titled *Operating Farm Easements: Guide to the Legal Document* summarizes the restrictions; contact us to request a copy.

USDA-Natural Resource Conservation Service (NRCS), which helps fund most of our farm easements, requires a farm conservation plan that protects highly erodible soil and water quality. All farming practices must comply with state and federal Required Agricultural Practices.

### Why Do Farmers Conserve Land?

- Protect farmland for future generations
- Transfer a farm to a family member
- Reduce long-term debt
- Expand or modernize farm operations
- Provide for retirement
- Facilitate a sale to a non-family member

All farm conservation easements include an Option to Purchase at Agricultural Value. This provision gives the easement holders the option to buy the land at its agricultural value should the owner intend to sell the farm to anyone other than a farmer or family member. The goal is to keep farmland in production and affordable to future farmers. The resale value is set by an appraisal when the farm is conserved, or a new appraisal can be requested at the time of sale.

## Selecting Farms to Conserve

There are minimum criteria for all applications. The farm must be a viable operation or have a sound plan for getting into operation. Farmland parcels that are additions to an already conserved farm, as well as high-quality parcels without farm structures, are also eligible. Conservation of the farm must comply with town and regional plans.

If your farm meets these minimum criteria, the first step is to discuss the process more thoroughly with VLT staff. The next step is to complete a pre-application, which summarizes the land's resources and the farm operation. We will help you complete the application.

Nearly all purchased farm easements are funded through the Vermont Housing & Conservation Board (VHCB). VLT works very closely with VHCB to meet their deadlines and their funding criteria.

## How Farmland Conservation Funding is Prioritized

All sizes and types of farms can receive funding for the sale of a conservation easement—from small vegetable operations close to town to big dairies surrounded by other farms. Regardless of the type of farm, the most important question is: “How likely is this farmland to stay in production into the future?” The answer to this question of long-term viability depends on these criteria:

1. Resources: There are prime or statewide-significant agricultural soils (using NRCS soil values) and the potential for diverse agricultural uses; topography and field access are also considered.
2. Location: The farm is located in a farming community or near other conserved farms. If it is under threat of conversion to non-farm use, and if this would be detrimental to nearby farms, special consideration is given.

## Creating Strong Applications

We encourage projects that contribute to the diversification of Vermont agriculture, exemplify innovative management, and are owner-operated or will be. Applications are stronger when:

- there is a significant local financial contribution to the project;
- an owner is willing to sell the easement for less than the appraised value;
- there are simultaneous donations of conservation easements by nearby landowners;
- if the owner offers trail, canoe, swimming hole, and other public access;
- if the land has special wildlife habitat, historic structures, or archaeological sites.

3. Management: Sound resource-management practices appropriate to the farm are used, including those that build the long-term productivity of its natural resources and protect water quality.
4. Farm infrastructure: Any buildings or equipment that exist are in good condition and are suitable to the existing or proposed operation.

Because each farm and family is different, we encourage you to talk to VLT staff about conserving your farm even if these basic criteria are not a perfect fit for your farm.

## Determining the Easement's Value

Once the pre-application is approved, the next step is to determine—with VLT staff and funders—what will be included in, or excluded from, the easement, along with any special features or conditions. These may include public trails, the option to build farm-labor housing, or specific restrictions to protect a waterway or important natural area.

Once the acreage and permitted and restricted uses are agreed on, the easement's value must be determined with an independent, professional appraisal. The landowner pays half the appraisal fee.

The appraisal relies on comparable sales of similar farms to establish two values: the value of the farm with no easement on it (the fair market value), and the farm's value with the conservation easement (restricted value). The difference between these two values is the value of the conservation easement (see sidebar for example).

VHCB and other funding sources have per-acre and per-project funding limits for purchasing easements, regardless of the appraised value.

Occasionally, farms that are large or are considered “agricultural resources of outstanding statewide significance” might exceed these funding limits. In this case, we can sometimes raise other funding.

## How Long Does it Take?

Projects often take two years or longer to complete. This time period will include:

- Conversation with VLT staff
- Submitting a pre-application
- Pre-application approval (4-6 months)
- Completing an appraisal (6-8 months)
- Signing a contract and submitting a grant application
- Funding approval, NRCS management plans, and closing (6-10 months)

## Example Valuation

Suppose the Smith Farm has an unrestricted market value of \$500,000.

However, with a conservation easement limiting its use, it is independently appraised at \$300,000.

The difference, \$200,000, is the value of the conservation easement.

## Final Application, Funding, and Closing

Once the appraisal is done, the landowner and VLT evaluate the conservation easement value. If the landowner accepts the appraised value, the next step is to sign a purchase and sale agreement with VLT. We then submit the grant application to a funding organization (usually VHCB). This organization decides which farm projects it will fund based on the quality of the agricultural resources and the amount of money available that year. Once funding is approved, the final legal documents and management plans are completed. This can take 6-10 months. Afterwards, a closing is scheduled.

## Consider Carefully

We encourage landowners to carefully consider this important family and business decision.

During the application process and before making a final decision, all landowners should consult with their attorney, tax advisor, and farm lender. The sale of a conservation easement often involves income, capital gains, and estate tax issues; impacts existing or planned farm financing; raises business planning issues; and/or involves substantial legal issues.

## Sources of Funding

Each year since 1987, the Vermont State Legislature has funded farmland conservation and affordable housing through the Vermont Housing & Conservation Board. This demonstrates the state's ongoing commitment to ensuring that Vermont will always have land available for farming. These funds are usually matched by the USDA Natural Resources Conservation Service. Private foundations, individual contributors, town conservation funds, and federal programs also generously support farmland conservation.

## Some Useful Clarifications

### **VLT will not own your farm.**

*You continue to own and manage the land.*

### **You will not be required to open your land to the public.**

*The standard farm easement does not require public access. Sometimes public access for trails and fishing sites, for example, can be part of a project.*

### **Your farm will not be taken off the tax rolls.**

*You will continue to pay property taxes on the restricted (conserved) value of your farm.*

### **VLT is not a Vermont State agency.**

*VLT is a private non-profit organization founded in 1977 to conserve productive land for the future of Vermont.*