



## What is a Conservation Easement?

Conservation easements are effective, long term land conservation tools. A conservation easement is a voluntary agreement that allows a landowner to limit the type or amount of development on their property while retaining private ownership of the land. The easement is signed by the landowner, who is the easement donor or when funding is available easement seller, and Sierra Foothill Conservancy, is the party receiving or purchasing the easement. Sierra Foothill Conservancy (SFC) accepts the easement with the understanding that it must enforce the terms of the easement in perpetuity. After the easement is signed, it is recorded with the County Register of Deeds and applies to all future owners of the land.

Another way to visualize a conservation easement is to think of owning land as holding a bundle of sticks. Each one of these sticks represents the landowner's right to do something with their property. The right to build a house, to extract minerals, to lease the property, pass it on to heirs, allow hunting are all rights that the landowner has. A landowner may give up certain development rights, or sticks from the bundle, associated with their property through a document called a conservation easement.

## Why do people grant conservation easements?

People grant conservation easements because they want to protect their property from unwanted development but they also wish to retain ownership of their land. By granting a conservation easement a landowner can assure that the property will be protected forever, regardless of who owns the land in the future. An additional benefit of granting a conservation easement is that the donation of an easement may provide significant financial advantage to the donor. A landowner may also sell a conservation easement to a conservation group and receive an income benefit. Whether donated or sold, the value of a conservation easement typically falls between 40-60% of the fair market retail value of the land.

## What kind of financial advantages result from donating a conservation easement?

Many landowners receive a federal income tax deduction for the gift of a Conservation Easement. The Internal Revenue Service allows a deduction if the easement is perpetual and donated "exclusively for conservation purposes." The amount of the tax deduction is determined by an independent appraisal of the value of the conservation easement. The donor may also have estate and property tax relief.

The standard tax benefits associated with donated conservation easements are the same as charitable gifts benefits. If the value of the conservation easement is 30% or less of the landowner's adjusted gross income, it may be entirely deducted in one year. If the value is greater, it may be spread over as many as 6 years.

☆ *NOTE: The Enhanced Federal Tax Incentive of 2008, detailed below, was extended by congress through December 2011, retroactive to December 2010. Congress may revive the enhanced incentive for 2013. Landowners who donated Conservation Easements in 2011 are eligible for the following benefits:*

Congress passed legislation May 2008 in the Farm Bill that significantly increases the landowner's tax benefit for a donated conservation easement. The incentive, which applies to a landowner's federal income tax:

- Raises the deduction a donor can take for donating a voluntary conservation agreement from 30% of their income in any year to 50%;
- Allows farmers and ranchers to deduct up to 100% of their income; and

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- Increases the number of years over which a donor can take deductions from 6 to 16 years

This is a limited benefit. Easements qualifying for these tax incentives must be recorded before the end of 2011. The land trust community is working hard to make this important conservation benefit permanent, but there are no promises. To learn more visit: <http://www.landtrustalliance.org/policy/tax-matters/campaigns/how-the-easement-incentive-works>

### **What activities are allowed on land protected by an easement?**

The activities allowed by a Conservation easement depend on the landowner's wishes and the characteristics of the property. In some instances, no further development is allowed on the land. In other circumstances some additional development is allowed, but the amount and type of development is less than would otherwise be allowed. Conservation easements may be designed to cover all or only a portion of a property. Every easement is unique, tailored to a particular landowner's goals and their land.

### **Can the landowner still sell or give the property away?**

The landowner continues to own the property after executing an easement. Therefore, the owner can sell, give or lease the property, as before. However, all future owners assume ownership of the property subject to the conditions of the easement.

### **Does the public have a right of access to easement-protected property?**

The public does not have access to property protected by a conservation easement unless the original landowner who grants the easement specifically allows it, or subsequent landowners choose to allow access. Most easement donors do not want, and therefore do not allow, public access to their property. Some conservation easement landowners allow Sierra Foothill Conservancy to conduct guided hikes and classes on their properties.

### **How long does an easement last and who upholds it in the future?**

To be eligible as a conservation easement with Sierra Foothill Conservancy and for a federal income tax deduction the easement must be "perpetual," that is, it must last forever. Sierra Foothill Conservancy monitors the property, generally once a year, to assure that the terms of the easement are not being violated. If the easement has been breached, SFC will take the necessary steps to uphold the terms of the easement, including taking legal action. Because of this obligation SFC asks all easement donors to make a financial contribution to the Conservancy's Stewardship Endowment Fund. This fund ensures long-term monitoring and enforcement of every easement the Conservancy receives.

### **Who owns the conservation easement?**

A conservation easement is either donated or sold to a qualifying conservation or historic preservation organization. Sierra Foothill Conservancy qualifies as a federally recognized public charity under Internal Revenue Code Section 501(C)(3) and 170(h) as an organization whose primary purpose is the preservation, protection, or enhancement of land in its natural, scenic, forested and/or open space condition.

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### **Who owns and manages easement protected land?**

The landowner retains full rights to control and manage their property within the limits of the easement. The landowner continues to bear all costs and liabilities related to ownership and maintenance of the property. The Conservancy monitors the property to ensure compliance with the easement's terms, but it has no other management responsibilities and exercises no direct control over other activities on the land except as may be explicitly agreed upon between the landowner and SFC in the conservation easement.

### **Does the easement have to cover all of the landowner's property?**

No, some easements only cover a portion of the landowner's property. Again, it depends on the landowner's wishes. For example, if someone owns 500 acres, of which 200 acres are wetlands, the landowner may decide to restrict development only on these 200 acres. The remaining 300 acres would not be covered or affected by the easement.

### **What kind of land can be protected by conservation easements?**

Properties possessing "significant" conservation values are eligible for conservation easements. This includes oak woodlands, conifer forests, wetlands, family ranches and forests, endangered species habitat, scenic areas and more. Each property must be evaluated on a case by case basis. At the invitation of the landowner Sierra Foothill Conservancy staff will evaluate the property and explore the landowner's conservation options.

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Saving Natural Lands, Now and Forever...

## Who is Sierra Foothill Conservancy?

Private landowners in Mariposa, Madera and Fresno County have been working with Sierra Foothill Conservancy (SFC) for more than 14 years to conserve the lands they love. Together we have protected over 11,000 acres of foothill lands through conservation easements with 22 landowners. In addition, SFC is owner and manager of 7 nature preserves totaling over 6,500 acres and has transferred over 2,500 acres to public agencies. To date SFC has conserved more than 20,000 acres. Sierra Foothill Conservancy is a locally operated and supported private non-profit land trust.

*SFC's Mission: The grasslands, foothills, and forests between Yosemite and Kings Canyon National Parks provide land for farms and ranches, a home for native plants and wildlife, and a source of clean water. The Sierra Foothill Conservancy honors our natural and cultural heritage by protecting these resources and ensuring that present and future generations will continue to experience and enjoy the land in this region.*

**For more information contact us or visit our website:**

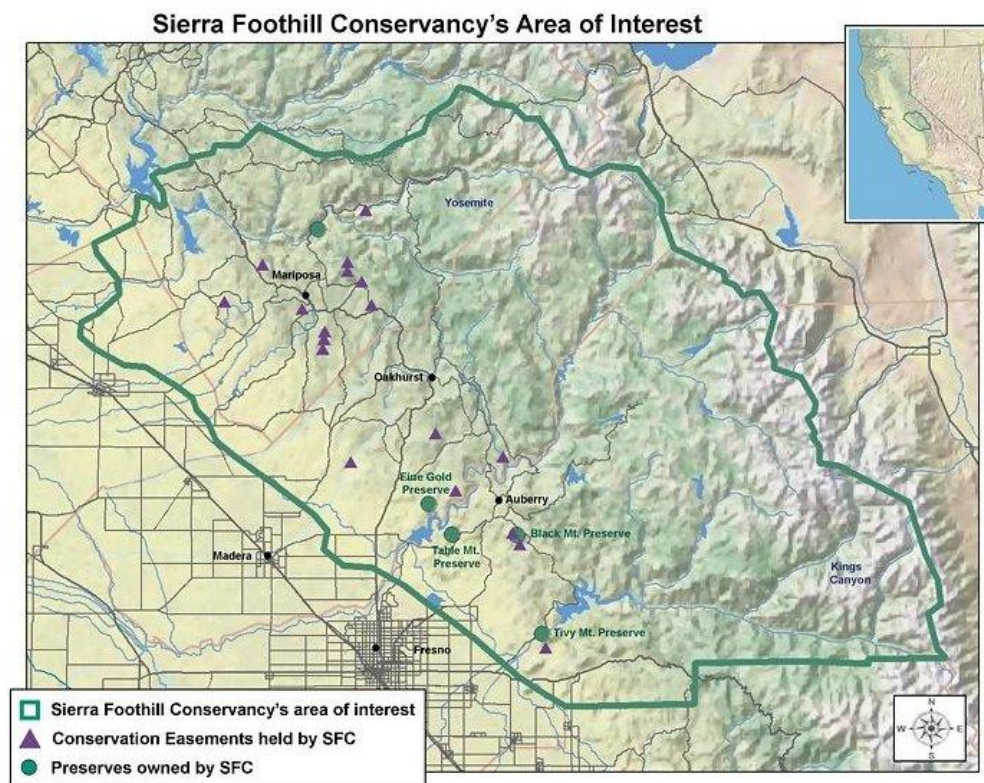
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