



## EASEMENT APPLICATION

Before completing this form, please contact Jane Myers, CRLC's Director of Land Conservation, at jane@capitalregionland.org or call 804-745-3110.

### I. LANDOWNER AND PROPERTY INFORMATION

|  |  |                  |  |
|--|--|------------------|--|
| <b>County/City:</b>  |  | <b>Acres:</b>    |  |
| <b>Property owner(s) as listed on land ownership deed(s).</b>  |  |                  |  |
| 1) <i>Indicate relationship of owners, if applicable (single, married, siblings, etc.)</i>   |  |                  |  |
| 2) <i>If property is owned by an entity such as a Trust or LLC, please provide names and contact information for all members, trustees, etc. on a separate page. Repeat for all underlying entities.</i> |  |                  |  |
|  |  |                  |  |
| <b>Primary Contact Person:</b>   |  |                  |  |
| <b>Mailing Address:</b>  |  |                  |  |
| <b>City/Town:</b>  |  | <b>State:</b>    |  |
|  |  | <b>Zip Code:</b> |  |
| <b>Home Phone:</b>   |  | <b>Work:</b>     |  |
|  |  | <b>Cell:</b>     |  |
| <b>E-mail:</b>   |  |                  |  |
| <b>Preferred Contact Method:</b>   |  |                  |  |

#### Address of property (if different from above):

|                |  |                   |  |               |  |             |  |
|----------------|--|-------------------|--|---------------|--|-------------|--|
| <b>Street:</b> |  | <b>City/Town:</b> |  | <b>State:</b> |  | <b>Zip:</b> |  |
|----------------|--|-------------------|--|---------------|--|-------------|--|

#### Property Tax Information

(List all parcels to be included in easement. Find on tax bills or contact locality to obtain and confirm this information.)

| <b>Tax Map or PIN#</b> | <b>Acres</b> | <b>Tax Map or PIN#</b> | <b>Acres</b> |
|------------------------|--------------|------------------------|--------------|
|                        |              |                        |              |
|                        |              |                        |              |
|                        |              |                        |              |
|                        |              |                        |              |

#### Road Frontage

(please list route numbers and road names on which the property lies)

|                   |                   |
|-------------------|-------------------|
| <b>Route No.:</b> | <b>Road Name:</b> |
|                   |                   |
| <b>Route No.:</b> | <b>Road Name:</b> |
|                   |                   |
| <b>Route No.:</b> | <b>Road Name:</b> |
|                   |                   |

This form is provided as a fillable PDF. Please use a computer to type-print this form if possible. Attachments may be appended if additional space is needed or to include information such as maps.

## II. ADDITIONAL INFORMATION

1. Current land use (forest, farm, type of crops, etc.)

2. To the best of your knowledge, is there a survey of the property or of any portion of the property?

YES  NO

Describe:

3. Is there a mortgage on the property or any other liens? (If so, please note that the Lender will need to agree to the conservation easement and sign the deed.)

YES  NO

Describe / List Lenders:

4. Number of dwellings (houses) on the property: Occupied          Vacant          Uninhabitable

5. List other significant buildings and estimated square footage (barns, sheds, garages, etc.)

Describe:

6. Do you own your mineral rights (i.e. oil, gas, coal, gravel)? YES  NO  NOT SURE

7. Do you own other property in the immediate area or plan to withhold land out of the easement? If so, please list the tax map parcel(s) or PIN(s):

Describe:

8. Is there any additional information relating to the property that might be important for CRLC staff to know? This could include whether the property is enrolled in a special program (i.e. Ag and Forestal District), awards, recognition such as Century Farm, National Register of Historic Places, etc.).

Describe:

9. Are there any issues such as boundary line dispute with an adjacent owner, significant trash dump(s), outstanding life estates, third party access easements through the property, utility easements, matters involving pending takings by the Commonwealth or any public utility, etc. Failure to provide this information could result in delays in processing the project or recording the deed of easement.

Describe:

10. Is this property being considered by any other organization for a conservation easement?

YES  NO  If yes, which group?

11. When did you acquire the property? Has it been family owned for 25-100 years  100+ years

12. Is this property currently being marketed for sale? YES  NO

13. Do you have a Title Insurance for the property? YES  NO

What is the name of the insurance company: \_\_\_\_\_

What year was the policy issued: \_\_\_\_\_

**III. ATTORNEY INFORMATION (if an attorney has been selected)**

|                              |  |                |  |
|------------------------------|--|----------------|--|
| <b>Landowner's Attorney:</b> |  |                |  |
| <b>Address:</b>              |  |                |  |
| <b>Phone:</b>                |  | <b>E-mail:</b> |  |

## IV. CRLC CONSERVATION EASEMENT STEWARDSHIP POLICY

All conservation easements either held or co-held by CRLC will be monitored annually per the CRLC Stewardship Policy by a CRLC staff member or a co-holder's staff member conducting an on-site inspection.

### A. Monitoring – Prior to Inspection

CRLC stewardship staff will contact landowner to set up date and time of visit. Landowners will be invited to join stewardship staff if they are available.

### B. Monitoring – Site Inspection – CRLC shall undertake annual monitoring visits unless a co-holding agreement obviates the need for this.

1. CRLC stewardship staff will document and/or photograph any changes on the property since the last visit, including but not limited to new structures, new roads, forest cuts, earthwork, etc. making note of the number and type of structures on the property, natural features, land uses, forest health, etc.
2. At a minimum CRLC stewardship staff shall document with photographs the condition of the subject property every fifth year at this time.

### C. Monitoring – Follow-Up

1. CRLC stewardship staff will send a thank you letter to the landowner acknowledging that the site inspection has been completed.
2. In the event of a possible violation of the easement terms, CRLC shall follow all protocols and procedures found in the CRLC Violations and Enforcement Policy with the belief that landowner education and relationship building are the best immediate and long-term methods to guarantee that conservation easements are upheld.

## V. CRLC CONSERVATION EASEMENT APPRAISAL POLICY

### I. Introduction

A landowner's desire to protect the land is the primary reason for donating property or a conservation easement to the Capital Region Land Conservancy (CRLC). However, it is frequently the tax incentives that make it possible to give generously and accomplish significant land protection goals. In order to claim a federal tax deduction or a state tax credit for a non-cash charitable gift, the landowner must engage an independent appraiser to determine the value of the gift. CRLC strongly recommends the use of a *Certified General Appraiser* but does not make specific recommendations. CRLC is not involved in the appraisal process and does not provide individualized legal or tax advice.

### II. IRS Appraisal Requirements For Gifts of Land and Conservation Easements

The IRS has specific requirements for reporting on and determining the value of charitable gifts. CRLC ensures the donor is aware of these requirements. Appraisals of land, especially land with subdivision potential, are substantially different from typical residential property appraisals. Appraisals of conservation easements are highly specialized. While the appraisal is the donor's responsibility - not CRLC's - CRLC advises the donor, as part of the written and signed application, to use a state-licensed or state-certified appraiser who follows the Uniform Standards of Professional Appraisal Practice (USPAP).

CRLC shall require a copy of the donor's appraisal in the event that a federal tax deduction or state tax credit is being sought and the value of the donation is more than \$5,000. While CRLC cannot pass judgment on the appraisal, it does have an interest in helping to see that the donor's appraisal will meet the IRS's requirements and that the appraisal value does not appear unreasonably high and thus likely to attract an IRS challenge. If CRLC has substantial concerns with the appraisal value or other terms of the transaction, CRLC staff should discuss these concerns with legal counsel and take appropriate action to document and share its concerns with the donor, seek additional substantiation of value, and/or decide whether to proceed with the transaction.

### III. Appraisal and Substantiation Requirements

The regulations pertaining to substantiation of charitable gifts of property in excess of \$5,000 are outlined in Treasury Department regulations (Treas. Reg. 1.170A-13(c)). Gifts of property valued in excess of \$5,000 must meet the following requirements:

- **The donor must obtain a written qualified appraisal.** The treasury regulations outline specific information that must be included. The timing of the appraisal is essential: it cannot be made earlier than 60 days before the date of the gift (recording date) and must state the fair market value of the gift as of the date of the contribution. The entire written appraisal and the Appraisal Summary (IRS Form 8283) must be received by the donor on or before the due date (including extensions) of the tax return on which the deduction is claimed.
- **A qualified appraiser must prepare the appraisal.** Generally, a qualified appraiser cannot be the donor, donee, a party to the transaction in which the donor acquired the property, an employee of or related to any of the forgoing persons, or any person whose relationship to the taxpayer would cause a reasonable person to question the appraiser's independence. An appraiser who is regularly retained by any of the above and who does not perform a majority of his or her yearly appraisals for other people is not a qualified appraiser. The appraisal fee must not be based on a percentage of the appraised value of the property.
- **An Appraisal Summary (IRS Form 8283), signed by the appraiser and the donee, must be attached to the federal income tax return** on which the deduction for the contribution is first claimed. This form is required by treasury regulations.
- **The donor must maintain records** containing certain information required for the property contributions in general, including the complete written appraisal.
- **For charitable donations of property valued at more than \$500,000, the donor must include the full, unabridged appraisal with the tax return.** This is a federal requirement enacted in October 2004.

There are specific Treasury regulations governing the determination of the value of the conservation easements. (See Treas. Reg. 1.170A-14(h)(3).)

To meet the terms of the Land Trust Alliance Tax Shelter Advisory, CRLC will evaluate transactions with pass-through entities of unrelated parties and require a copy of the appraisal prior to closing to evaluate if the transaction is potentially fraudulent or abusive. CRLC will decline to participate in a transaction if it appears to violate the Charitable Conservation Easement Program Integrity Act passed by Congress in 2022. Such transactions include claims of a charitable donation that exceed 2.5 times the relevant basis of each partner unless the partnership is owned by members of a family or meets a 3-year holding period since the partnerships acquisition of the property.

#### **IV. Informing the Donor of the Requirements**

While helping the donor understand the complexities of the appraisal and substantiation requirements, CRLC must make clear to the donor that meeting those requirements and the determination of the value of the contribution, are the donor's, not CRLC's responsibility.

#### **CRLC will reserve its right to decline to sign a donor's IRS Form 8283**

1. CRLC will review for completeness and accuracy the donor's IRS Form 8283 for each transaction where a charitable donation is being claimed.
2. CRLC's acceptance of a gift of conservation land or easement and its signing of the IRS Form 8283 does not represent agreement with the fair market value claimed on that Form.
3. CRLC will sign a donor's IRS Form 8283 indicating receipt of a gift of conservation land or a conservation easement **only if all** of the following conditions have been met:
  - a. In the case of a "qualified conservation contribution", as defined in IRC 170(h), the IRS Form 8283 as provided to CRLC must have all relevant information completed, including the identification of the property donated, the physical description of the condition of the property donated, the appraisal fair market value both before and after the gift, the contribution purpose furthered by the gift, the declaration of the appraiser and the donor's social security/taxpayer identification number. This must be provided at least 30 days in advance of requiring CRLC's signature.
  - b. The donor has provided CRLC with a complete copy of a signed qualified appraisal commissioned by the donor that is the basis for the Appraisal Summary (Section B) of the IRS Form 8283, also at least 30 days in advance of requiring CRLC's signature on the IRS Form 8283.
  - c. CRLC is unaware of any factual errors contained in the Form 8283.
  - d. The IRS Form 8283 has been signed by the appraiser.
  - e. The transaction does not entail a disqualified contribution under the Charitable Conservation Easement Program Integrity Act.

Fees paid by a donor to determine the value of donated property are not treated as part of the charitable contribution. However, such fees can be claimed by the donor as incurred in the determination of tax under Section 212 of the Internal Revenue Code—at least to the extent that they and other "miscellaneous deductions" exceed 2 percent of gross income limitation. This can help offset the appraisal cost.

**The IRS issued a notice in 1990 warning that a significant percentage of taxpayers fail to attach Form 8283 to their tax returns. Failure to comply with any aspect of the substantiation regulations could cause the deduction to be disallowed entirely.**

**CAPITAL REGION LAND CONSERVANCY DOES NOT PROVIDE LEGAL, TAX, OR FINANCIAL ADVICE – Please consult with your attorney, accountant, financial advisor, and other professionals**

## VI. CRLC Processing Fee

Thank you for considering the granting of an easement to CRLC. Your easement proposal must be reviewed by the Easement Committee and recommended for approval by the CRLC Board of Directors (the "Board"). The CRLC's Conservation Staff will guide your proposal from start to finish. They will visit your property one or more times for initial background information and documentation, answer any questions you or your family has regarding the restrictions on your land, conduct a thorough analysis of your property's conservation attributes, research courthouse records as needed, and create a detailed report of the Easement Committee's review and Board's approval.

**CRLC's Application Fee of \$500** is payable prior to the CRLC's Conservation Staff visit to your property and covers only a fraction of the cost to evaluate the property, proceed through CRLC approvals, and prepare the deed for recording.

Additional fees for the preparation of the **Baseline Documentation Report (approximately \$2,500 - \$4,000)** and one-time donation to the **Stewardship/Legal Defense Fund (beginning at \$12,000)** are payable and/or pledged at the time the conservation easement is recorded in the courthouse.

### Certification Statement

The undersigned applicant understands and hereby acknowledges that all determinations by CRLC regarding proposed conservation easements or other land donations/transfers shall be made at CRLC's sole discretion and further that CRLC reserves the right to accept or deny any proposed gift, donation or transfer at any point during its due diligence phase based on its own internal policies and procedures or other factors deemed relevant by CRLC. The applicant further certifies hereby that (i) it has received and reviewed the Capital Region Land Conservancy's Conservation Easement Stewardship and Appraisal Policies, (ii) the information set forth above is true and accurate to the best of applicant's knowledge and (iii) that any material change of fact or circumstance thereto shall be made known to CRLC prior to recordation of the easement. Failure to comply with any portion of the above Certification Statement shall constitute grounds for rejection or revocation of the associated land transfer by CRLC.

SIGNATURE: Landowner(s)

\_\_\_\_\_  
Name: \_\_\_\_\_ Date: \_\_\_\_\_

\_\_\_\_\_  
Name: \_\_\_\_\_ Date: \_\_\_\_\_

\_\_\_\_\_  
Name: \_\_\_\_\_ Date: \_\_\_\_\_