



Preserving Virginia's scenic, natural, historic, recreational,
and open-space lands for future generations.

5 Steps to Take after Board Approval of Your VOF Easement

Step 1: Obtaining Appraisal.

VOF does not require an appraisal for the donation of an easement. However, if you intend to claim a federal tax deduction or a state tax credit for the donation, you must engage an independent appraiser to determine the value of your gift. The IRS requires that the appraisal be made by an IRS-defined qualified appraiser; a Certified General Appraiser will probably qualify. To satisfy IRS requirements, appraisals must indicate the fair market value of the easement as of the date of the gift and be dated no earlier than 60 days prior to the gift and no later than the due date (with any extensions) of your tax return. Because of this date imperative, you should let your appraiser know when the deed of easement will be recorded.

Step 2: Completing Baseline Documentation Report.

A Baseline Documentation Report (BDR) setting forth the characteristics and condition of your property prior to recordation of the easement must be prepared. If you have not yet decided whether to have VOF or a third party prepare your BDR, now is the time to decide so that work can begin. Talk to your VOF staff person about this decision. If VOF prepares the BDR, a fee of \$3,000-\$3,500 will be charged at the time that a completed report is provided to you. Alternatively, if the report is prepared by another party, it must meet VOF quality standards, and a BDR review fee of \$1,500 will be charged with the submission of the report to VOF. The report will require your review and any necessary corrections. If the information in the BDR is accurate, you and any other owners of your property must sign the BDR acknowledgment form and return it to us. The deed of easement must be recorded within 60 days of your signing of the BDR acknowledgment.

Step 3: Finalizing Deed of Easement.

Your attorney will send the deed of easement to us for final review. VOF will suggest final edits, if any, and return the deed to your attorney for editing and signatures. All legal owners must sign the deed, and any mortgage lender and its trustees must sign the deed to subordinate its deed of trust to the deed of easement. If the land is owned by an LLC, partnership, corporation, or trust you must provide evidence that the person signing the deed has authority to do so, such as a resolution or consent. VOF will sign the deed last. The VOF staff member authorized to sign deeds of easement will not sign the deed until it is verified that the signed VOF Disclosure and BDR Acknowledgement forms are in our files. After such verification, we sign the deed.

Step 4: Recording Easement.

VOF will send the fully executed deed of easement to the title company handling your project, which, after doing a final title search ("performing a title bring-down"), will record the deed in circuit court clerk's office in the county or city in which your property is located. Once the deed is recorded, it is binding on you and your successors in ownership.

Step 5: Tax Matters

In order to obtain a federal tax deduction for your donation, you must file a Federal Tax Form 8283 (Form 8283) with your tax return. Form 8283 requires an appraiser's declaration along with a copy of the appraisal of your land and VOF's signed acknowledgment of your gift. For VOF to sign the Form 8283, you must submit to VOF the following:

1. A completed Form 8283, including the donor's name, a description of the gift, the appraised fair market value of the gift, and the appraiser's declaration. ***Please note that your appraiser must sign before VOF signs.***
2. A pdf copy of the full appraisal for your property.

The above documents should be submitted by e-mail, fax or UPS/Fedex (do not use USPS):

Anna G. Chisholm, Deputy Director
900 S. Main Street, Blacksburg, VA 24060
achisholm@vof.org

Tel: 540-739-9131
Fax: 540-301-5783

VOF will sign the scanned, faxed, or original copy of Form 8283 and return it to you. You may want a signed scanned or fax copy for quick transmittal and a signed original later. VOF will sign and return both if you need both.

VOF is required to provide written acknowledgment of the gift of easement to you (all persons signing the deed of easement). This is referred to as the tax or acknowledgment letter. Usually, this letter is mailed to you after receipt of the above submissions and within 30 days after recordation of the easement. However, during periods of high volume, such as October 1st through December 31st of each year, it may take longer to mail out the acknowledgment letter, but you will receive it prior to April 15th of the year following the gift. Please contact VOF at the address listed above for Form 8283 if you are ready to complete your federal filing and have not received your acknowledgement letter.

In order to obtain a state tax credit for your donation, you must file a Form LPC-1 Application for a Land Preservation Credit with the Virginia Department of Taxation and attach the following: (i) a copy or CD of the full appraisal; (ii) a signed statement (made under penalty of perjury that meets the requirements under Va. Code § 8.01-4.3) or a notarized affidavit from the appraiser stating that the appraisal complies with Va. Code § 58.1-512.1(C), which statute states in part that: “Any appraisal submitted in support of an application for a credit under this article shall include an affidavit by the appraiser that to the best of his knowledge and belief the valuation complies with this section and shall set forth in the affidavit or refer to the specific portion of the appraisal setting forth the facts and basis for this knowledge and belief.”; (iii) a copy of the recorded deed of donation; and (iv) a copy of the signed, completed Form 8283. **The application must be filed with the Department of Taxation by December 31st of the second year following the calendar year of the conveyance or the credit will be disallowed.** If you are applying for tax credits of \$1 million or more, you must also file a copy of the recorded deed and a copy of the Baseline Documentation Report with the Virginia Department of Conservation and Recreation. To avoid delays at the time of annual return processing, the Tax Department recommends filing the LPC-1 within 90 days of the donation, but at least 90 days before filing your annual return and, if you are applying for \$1 million or more in tax credits, submitting the LPC-1 at least 120 days before filing your annual return.

You may sell or otherwise transfer the credits to other persons or entities with Virginia income tax liabilities. If you decide to transfer state tax credits to another person, you will have to file a Form LPC-2 Notification of Transfer of Land Preservation Credit with the Virginia Department of Taxation, which will charge you a fee of 2% of the easement value (5% of the amount of the tax credit) on the transfer of the tax credit. To avoid delays at the time of annual return processing, the tax department recommends filing Form LPC-2 within 90 days of the credit transfer, but at least 90 days before filing your annual return. Income from the sale of tax credits will not be considered income for state income tax purposes, but it will be considered income for federal income tax purposes. (*Check with your tax advisor or attorney to determine whether the sale of tax credits is the sale of a capital asset that will result in short-term or long-term capital gain.*)

VOF provides this information to assist landowners, but not as tax advice. Please check with your tax advisor or attorney about qualifying for tax benefits associated with conservation easements.