



# Historic Conservation Easement Program: Frequently Asked Questions

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## 1. What is a historic conservation easement?

A conservation easement allows the owner of a historic property to retain title and use of a property and, at the same time, ensure its long-term preservation. An easement is a legal contract by which the owner agrees to maintain the property according to the Secretary of the Interior's Standards. Adhering to these Standards ensures that a building's integrity, value, and historic context are preserved. It may also include surrounding property and landscape features. The easement, usually granted in perpetuity, is filed in the county land records and binds the current owner as well as all subsequent owners. The owner retains a major interest in the property and can sell it or will it to whomever he or she wishes.

Because each property is unique, conservation easements are individually written and tailored to each property, defining the precise elements that are to be preserved. Protected features may include the facade, interior, grounds, view sheds, or air rights. Any number of features may be included according to the specifics of the property in question; those listed above are some of the more common details.

## 2. How is a historic conservation easement a preservation tool?

A listing in the [National Register of Historic Places](#) does not prevent an owner from demolishing a building throughout the state. In some cities, local preservation ordinances do provide a measure of protection for historic properties. While separate from the National Register, a historic conservation easement is the only tool that ensures the preservation of a historic property in perpetuity.

An easement requires both current and future owners to properly maintain the property, and it provides a legal means of enforcement. Because easements are recorded on the title for the property and run in perpetuity, regardless of the owner, they serve as a vital tool to protect historic places for future generations.

## 3. What properties are eligible for the easement program?

Properties which are eligible for the program are either listed in the National Register of Historic Places, a contributing property within a National Register Historic District, a National Historic Landmark, a Local Landmark, or has been determined to be potentially eligible for any of the above by the State Historic Preservation Office or the local preservation ordinance.

## 4. What can a historic conservation easement cover?

Many of the historic conservation easements held by Restore Oregon are facade easements which pertain to the exterior envelope of the building and the airspace above. The interior of the building is not usually included in the scope of the easement; however, it can include elements such as the floorplan of the structure or specific features. Naturally, the easement also prohibits alterations to the surrounding grounds that would mar the exterior appearance of the building, such as utility towers or signs.

Historic conservation easements may also be applied to land. For example, the owner of a farm who does not wish his/her land to be developed can grant an easement restricting future development of the property.

## 5. What are the benefits of a historic conservation easement?

Benefits of donating an easement include the protection of a donor's personal interest in preserving their family's heritage; preservation of a building on which an owner has spent considerable time and resources restoring; improvement of one's community through long-term preservation of a significant landmark; and long-term professional assistance with technical preservation issues.

Some people donate easements to take advantage of potential economic incentives. If the property is listed in

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the National Register of Historic Places, the owner may be able to take a charitable contribution deduction from their federal income taxes for the value of the conservation easement, if the contribution meets Internal Revenue Service requirements.

The value of an easement for the purposes of the federal tax deduction varies by property, based on an appraisal performed by a qualified appraiser. The property's development potential can also affect the easement value. Anyone donating an easement should obtain solid tax and legal advice specific to their circumstances.

### **6. What is the process of putting a historic conservation easement on a property?**

The first step is to speak with a staff member of Restore Oregon about the program and then submit an application with documentation supporting the property's historic significance. Once that application is submitted, Restore Oregon will inspect the property to determine its eligibility for an easement and discuss what features would be included in the easement. Restore Oregon's easement committee reviews the application and if accepted, Restore Oregon's Board of Directors will make the final vote to accept the easement.

Once the easement is accepted, Restore Oregon's attorney drafts an easement document for review by the owner and his/her attorney and accountant. This document includes the legal description of the property, drawings of the site plan and/or floor plan if interior features are included, identifies the elements of the property that the easement covers, specifies requirements for restoration and maintenance of the property, and documents the property's existing condition through photographs. The owner and the Restore Oregon review the draft and make any changes that are mutually agreeable.

### **7. What are the fees associated with donating an easement?**

Restore Oregon charges an application fee of \$150. Additional costs include the appraisal fee, filing fee, and potential expenses related to documentation and easement maintenance.

### **8. What is required of a property with a historic conservation easement?**

A requirement of an easement property owner is the proper stewardship and maintenance of the historic resource. A property owner must also provide Restore Oregon access to the property during annual monitoring. Restore Oregon conducts annual monitoring of its easement properties to ensure the easement requirements are being upheld and proper maintenance of the building is occurring.

### **9. What is Restore Oregon's role reviewing proposed alterations to historic conservation easement properties?**

In general, contact Restore Oregon prior to any alterations of the elements protected by the easement. This can include: windows, doors, siding material, architectural details and in certain instances, can even include paint color and/or landscape features.

Restore Oregon has an experienced, dedicated, and professional staff, knowledgeable about easements and historic properties to assist with proposed alteration applications. Restore Oregon can also connect owners with preservation professional consultants and other professionals with experience working on historic structures to conduct proposed alterations.

### **10. Who reviews proposed alterations to a historic conservation easement property?**

Restore Oregon has an easement committee, along with Restore Oregon staff, who reviews any proposed

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alterations to a historic conservation easement property. The easement committee consists of seven members with expertise in historic architecture, historic preservation, preservation law, and historic design review.

Once a proposed alteration has been submitted by the property owner, Restore Oregon will respond within 30 days to the proposed alteration request with its approval, approval with conditions, or denial. If denied, Restore Oregon will work with the property owner to ensure the work can be done while retaining the historic integrity of the property.

## **11. What are the standards and guidelines for reviewing changes to a historic conservation easement property?**

Please be advised that Restore Oregon has adopted the [Secretary of Interior's Standards for Treatment of Historic Properties](#). The Preservation standard "places a high premium on the retention of all historic fabric through conservation, maintenance and repair. It reflects a building's continuum over time, through successive occupancies, and the respectful changes and alterations that are made."

## **12. Does Restore Oregon enforce an historic conservation easement?**

To have a successful easement program, Restore Oregon has the resources and willingness to enforce the easements it holds should violations occur. It considers a strong enforcement policy vital to maintaining the integrity of our program. Restore Oregon believes it has a responsibility to ensure the preservation of the properties it has promised to protect, and recognizes the great trust that has been placed on the organization by easement donors.

If after Restore Oregon has provided extensive resources and opportunities to the property owner to address issues such as deferred maintenance, Restore Oregon has the legal obligation to defend the easement through a property lien or other legal action.

## **For More Information**

The [National Trust for Historic Preservation](#) provides a wealth of information about historic conservation easements on their website. Other organizations throughout the United States provide additional information about easements, including [Historic New England](#), [Preservation Utah](#), and [L'Enfant Trust](#).

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## About Restore Oregon

*Preserve, reuse, and pass forward the historic places that make our communities livable and sustainable.*

Since 1977, Restore Oregon has evolved over the years, we've always focused on taking care of the places that make Oregon, OREGON: the historic homes and neighborhoods, bridges and barns, churches and Main Streets that make this place so authentic and livable. Our work depends on support from people like you. Please join or donate today.

